

100  
No. 08-0977

Supreme Court, U.S.  
FILED  
APR 23 2009  
OFFICE OF THE CLERK

In The  
**Supreme Court of the United States**

RANDOLPH E. GREEN,

*Petitioner,*

V.

UNITED STATES DEPARTMENT OF LABOR,  
SECRETARY OF LABOR ELAINE CHAO,  
WATERTOWN ARSENAL,  
DEPARTMENT OF THE ARMY,  
U.S. PUBLIC HEALTH SERVICE HOSPITAL,  
CAROL ADAMS, DISTRICT DIRECTOR,  
EDWARD DUNCAN, DEPUTY DIRECTOR,

*Respondent.*

On Petition for A Rehearing of An  
Order Denying a Petition for a Writ  
Of Certiorari for Extraordinary  
Circumstance  
Pursuant to Rule 44 - 2 and 3

Randolph E. Green  
8 Woodbine Street  
Roxbury, MA 02119  
Phone: (617) 445-6488

**QUESTIONS PRESENTED  
FOR REVIEW - CONSTITUTIONAL CRITERIA  
ESTABLISHED ACTS OF CONGRESS**

**Title 5 USCA Section 8107 Act  
Title 5 USCA Section 8110 Act  
Title 42 USCA Section 1981 Act  
Title 42 USCA Section 1983 Act  
Title 42 USCA Section 1985(3) Act  
Title 42 USCA Section 1988 Act  
Title 42 USCA Section 2000a2 Act**

**Fifth Amendment to the United States  
Constitution**

**Thirteenth Amendment to the United States  
Constitution**

**Fourteenth Amendment to the United States  
Constitution**

**Title 5 USCA Section 7103 Act and 7116 Act  
Federal Digest Section 32 Act  
Title 29 USCA Section 666 Act**

**1 Question Presented**

Pursuant to Title 5 USCA Section 8107, the Secretary of Labor Etal have deprived and has violated Petitioner's right to paid compensation schedule for Petitioner's April 8, 1964 injury.

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Randolph E. Green  
8 Woodbine Street  
Roxbury, MA 02119  
Phone: (617) 445-6488

Wherefore the Constitution of the United States is the Supreme Law of the land of the United States. Wherefore, no person nor no part of any government agency nor any government official officer are immune from an aggrevious act of unlawful and malicious

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conduct of deprivation of federal constitutional rights against petitioner and deprivation of petitioner's civil rights and deprivation of petitioner's due process right. Wherefore, if the constitutional rights' law is unjust and the civil rights' law is unjust and the due process law is unjust, then there is no law at all.

#### Question Presented

Wherefore, I, Petitioner Randolph E. Green have been denied and have been deprived of my legal right to represent myself in this Honorable Supreme Court of the United States in this case docketed as 08-0977 denied on March 30, 2009 before and without being afforded my petitioner's legal right to a fair and an impartial hearing, a judicial or administrative hearing conducted in accordance with due process of law.

#### Question Presented

Wherefore, I, Petitioner Randolph E. Green, hereby move and expressly claim and preserve petitioner's legal rights to proceed in Petitioner's vindication of petitioner's civil rights, constitutional rights and due process right involving all matters that set forth in petitioner's petition by federal law, as a matter of laws, that have been filed in this Honorable Supreme Court of the United States under Case No. 08-0977 Petitioner claims and preserves its legal rights to the Petition for rehearing for a Writ of Certiorari. Petitioner claims and preserves Petitioner's legal right to its day in court by demand.

#### Affidavit in support of all involved

**QUESTIONS PRESENTED  
FOR REVIEW - CONSTITUTIONAL CRITERIA  
ESTABLISHED ACTS OF CONGRESS**

**2 Question Presented**

Wherefore, I, Petitioner, hereby move and expressly claim and preserve Petitioner legal right to a judgment by law in the amount of \$100,000,000.00 (One Hundred Million Dollars) by demand against the Defendants, United States Department of Labor, Etal, Secretary of Labor, Etal involved for failing to file an answer to Plaintiff's complaint, nor an answer to Petitioner's claims that set forth in Plaintiff's complaint and Petitioner's petition. Wherefore the Government Etal waiver of its right to file a response to Petitioner's petition does not substitute an answer to Petitioner's petition nor Plaintiff's complaint.

**3 Question Presented**

The record of this case will clearly show by the preponderance of the evidence on March 30, 2009 that this Honorable Supreme Court Justices have denied Petitioner's petition that contains the question presented for review - constitutional criteria established act of congress. Petitioner claims and preserves its legal right to this Petition for the rehearing of an order denying Petition for a Writ of Certiorari for extraordinary circumstance of having been deprived by all court to keep Petitioner from representing myself in a court of law against the Government respondents U.S. Department of Labor Etal, where no answer Plaintiff's complaint was filed and no response to Petitioner's petition by the

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Respondent Etal. Wherefore Petitioner is entitled to a judgment by law.

#### 4 Question Presented

The Supreme Court Justices of the United States have upheld the unlawful wrong committed against me, Petitioner Randolph E. Green, by the Secretary of Labor, Government Respondent Etal, where the Supreme Court Justices Etal denied Petitioner's Petition for a Writ of Certiorari on March 30, 2009 as a favor for the Government Respondent Etal before and without having sighted a United States Code annotated Title clear statutory mandate ratified act of congress in support of the Supreme Court Justices' denial of Petitioner's petition for a Writ of Certiorari. Wherefore the Supreme Court Justices have no legal right, ground to deny me as Petitioner a judgment in this Case No. 8-0977 filed in the Supreme Court of the United States.

#### 5 Question Presented

Wherefore, I, Petitioner Randolph E. Green, hereby move, verify and certify that this petition for a Writ of Certiorari is of the extraordinary circumstances, is presented in good faith. Wherefore, I, Petitioner Randolph E. Green, have been deprived of all petitioner's legal rights to due process rights, constitutional rights, and civil rights here in the Commonwealth of Massachusetts, signed by me, the Petitioner Randolph E. Green of 8 Woodbine Street - Roxbury, and in the Supreme Court of the United States. Petitioner has over one hundred (100) Exhibits documents to sustain all claims of merit.

**AFFIDAVIT IN SUPPORT OF THE MERITS.**

I, Petitioner, hereby move, verify, certify, declare and swear that the statements contained herein this document are true merits shown by the preponderance of the evidence to the best of my knowledge. Signed under the pains and penalties of perjury on this 20 day of April 2009.



Randolph E. Green  
8 Woodbine Street  
Roxbury, MA 02119

Sworn and subscribed to before me a Notary on this 20 day of April, 2009.

Notary Public

My commission expires:

This is to certify that I, Randolph E. Green, Petitioner have served the Government Respondent three copies of this document motion to the acting Solicitor General Counsel of Record, Edwin S. Kneedler, US Department of Justice - Office of the Solicitor General - Washington, DC 20530 by regular U.S. Mail on this 21 day of April 2009.



Randolph E. Green

This is to verify, to certify and claim and swear that the statements made and contained herein this document are true to the best of my knowledge. Signed under the pains and penalties of perjury.

*Randolph E. Green*  
Randolph E. Green  
8 Woodbine Street  
Roxbury, MA 02119

Sworn and subscribed to before me a Notary on this  
20<sup>th</sup> day of April, 2009.

*RL*  
Notary Public  
Pamela L. W.  
Notary Public  
My Commission Expires  
October 15, 2011

My commission expires:

No. 08-0977

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In The  
Supreme Court of the United States

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RANDOLPH E. GREEN,

*Petitioner,*

V.

UNITED STATES DEPARTMENT OF LABOR,  
SECRETARY OF LABOR ELAINE CHAO,  
WATERTOWN ARSENAL,  
DEPARTMENT OF THE ARMY,  
U.S. PUBLIC HEALTH SERVICE HOSPITAL,  
CAROL ADAMS, DISTRICT DIRECTOR,  
EDWARD DUNCAN, DEPUTY DIRECTOR,

*Respondent.*

PETITIONER HEREBY MOVES AND FILES A  
PETITION FOR REHEARING OF THE DENIAL  
ON MARCH 30, 2009 OF THE COURT ON THE  
MERIT FOR EXTRAORDINARY  
CIRCUMSTANCES PURSUANT TO RULE 44 -1 - 2  
AND 3 OF THE SUPREME COURT OF THE  
UNITED STATES

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Randolph E. Green  
8 Woodbine Street  
Roxbury, MA 02119  
Phone: (617) 445-6488

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MERITS PRESENTED IN EVIDENCE OF  
VIOLATION OF CONSTITUTIONAL CRITERIA  
ESTABLISHED ACTS OF CONGRESS

Title 5 USCA Section 8107 Act  
Title 5 USCA Section 8110 Act  
Title 42 USCA Section 1981 Act  
Title 42 USCA Section 1983 Act  
Title 42 USCA Section 1985(3) Act  
Title 42 USCA Section 1988 Act  
Title 42 USCA Section 2000a2 Act

Fifth Amendment to the  
United States Constitution

Thirteenth Amendment to the  
United States Constitution

Fourteenth Amendment to the  
United States Constitution

Title 5 USCA Section 7103 Act and 7116 Act  
Federal Digest Section 32 Act  
Title 29 USCA Section 666 Act

2 Merit Presented

Pursuant to Title 5 USCA Section 8107, the Secretary of Labor Etal. have deprived and have violated petition right to paid compensation schedule for petitioner's April 8, 1964 injury in case No. A1-42911.

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### **3 Merit Presented**

Pursuant to Title 5 USCA Section 8110, the Secretary of Labor has violated and has deprived petitioner and petitioner's wife Melba L. Green and petitioner's 8 dependent children from receiving augmented compensation pursuant to the FECA, program in Case No. A1-42911.

### **4 Merit Presented**

Pursuant to Title 42 USCA Section 1981, the Secretary of Labor has deprived petitioner of the established criteria of the Equal Rights under the law to a fair and an impartial hearing, a judicial or administrative hearing, conducted in accordance with due process in Case No. A1-42911.

### **5 Merit Presented**

Pursuant to Title 42 USCA Section 1983, the Secretary of Labor has constituted deprivation of petitioner's civil rights against petitioner on January 18, 1967. For terminating petitioner's compensation benefits pay from the office of workers compensation program, before and without affording petitioner a fair and an impartial hearing, a judicial or administrative hearing, conducted in accordance with due process in Case No. A1-42911.

### **6 Merit Presented**

Pursuant to Title 42 USCA Section 1985 (2) and (3) the Secretary of Labor Etal have constituted conspiracy

against petitioner involving Case No. A1-42911, and constituted obstruction of justice for the purpose of depriving and violation of petitioner's due process right to a fair and impartial hearing, a judicial or administrative hearing, conducted in accordance with due process.

#### 7 Merit Presented

Wherefore pursuant to Title 42 USCA Section 1988, the Secretary of Labor has interfered and has deprived petitioner of the proceeding in vindication of petitioner's civil rights in violation of petitioner's due process right to a fair and an impartial hearing, a judicial or administrative hearing conducted in accordance with due process in Case No. A1-42911.

#### 8 Merit Presented

Where as in pursuant to Title 42 USCA Section 2000 A1, the Secretary of Labor Etal have interfered with petitioner's civil rights by withholding petitioner from exercising petitioner's right privilege secured by Section 2000A or 2000A1 including racial discrimination in violation of Title 42 USCA Section 2000A2 against petitioner's due process rights to a fair and an impartial hearing, a judicial or administrative hearing, conducted in accordance with due process in Case No. A1-42911.

#### 9 Merit Presented

Pursuant to the established constitutional criteria of the Fifth Amendment to the Constitution of the United States, the Secretary of Labor Etal have violated petitioner's due process clause right, to a fair and an

impartial hearing, conducted in accordance with due process in Case No. A1-42911.

#### 10 Merit Presented

Pursuant to the established criteria of the Thirteenth Amendment of the Constitution of the United States, the Secretary of Labor Etal have as a result of the use of wrongful conduct in violation of petitioner's Thirteenth Amendment right, by using involuntary servitude slavery against petitioner's civil rights and due process rights and constitutional rights, guaranteed to the petitioner by the Fifth, Thirteenth, and Fourteenth Amendments to the Constitution of the United States was violated on January 18, 1967 in Case No. A1-42911.

#### 11 Merit Presented

Pursuant to the Fourteenth Amendment of the Constitution, the Secretary of Labor Etal have abridged, deprived petitioner of petitioner's right to due process of law guaranteed by the Fifth, Thirteenth and Fourteenth Amendments of the Constitution of the United States in violation of petitioner's constitutional rights, guaranteed by the due process clause of the Fifth, Thirteenth and Fourteenth Amendments to the Constitution of the United States, Title 42 USCA Sections 1981, 1982, 1983, 1985(2) and (3), 19833, and 2000 A2 and Title 5 USCA 8107 and 8110 of Title 5 in Case No. A1-42911.

#### 12 Merit Presented

Pursuant to Title 5 USCA Sections 7103 act and 7116 act the employer Watertown Arsenal and supervisor

has constituted the use of unfair labor practice against petitioner's health and welfare in violation of petitioner's right to be offered light duty working condition for physical and health safety condition where the use of unfair labor practice has constituted infliction of emotional stress against petitioner.

#### 13 Merit Presented

Pursuant to Federal Digest 32, the Secretary of Labor Etal have constituted deception constituting fraud against petitioner to defraud and deprive and withhold petitioner from collecting punitive damages, pain and suffering damages, infliction of emotional stress damages and monetary damages for petitioner's April 8, 1964 injury at work in line of duty in Case No. A1-42911.

#### 14 Merit Presented

Pursuant to Title 29 USCA Section 666 Act, the employer the Watertown Arsenal official employers have deprived and have violated petitioner's right to job safety or physical and health safety condition at work involving petitioner's personal injury of April 8, 1964.

#### 15 Merit Presented

Pursuant to Judge Rya Zobel's malicious conduct of the order of dismissal of plaintiff's complaint in its entirety with prejudice has constituted conflict against the Fifth, Thirteenth and Fourteenth Amendments due process right to the Constitution of the United States, in violation of petitioner's civil rights and violation of petitioner's constitutional right guaranteed by the Fifth, Thirteenth and Fourteenth Amendments to the

Constitution of the United States, 42 USCA Section 1983, 1985 (2) and (3) and 2000A2 of Title 42 in Case No. 07-10385.

#### 16 Merit Presented

Pursuant to Judge Rya Zobel's order of dismissal of petitioner's complaint in its entirety with prejudices on July 30, 2007 before and without issuance of summons has constituted conduct of interfering with petitioner's civil rights due process right and constitutional rights in violation of Rule 4 and Rule 7 of the Federal Rules of Civil Procedure of United States Code Annotated Rules of Law violated against petitioner's due process right in Case No. 07-10385.

#### 17 Merit Presented

Pursuant to the First Circuit Court of Appeal's 3 judges order of agreeing with judge order of dismissal of July 30, 2007, March 19, 2008 has constituted first circuit unlawful, misconduct, and interfering with petitioner's proceeding in vindication of petitioner's civil rights including racial discrimination and deprivation of federal constitutional rights in violation of United States Code Annotated Title 5 USCA Sections 8107, 8110 and United States Code Annotated Title 42 USCA Sections 1981, 1983, 1985 (2) and (3), 1988 and 2000A2 of Title 42 in Case No. 07-10385.

#### 18 Merit Presented

Wherefore the First Circuit Court of Appeal 5 judges' ruling against petitioner on June 20, 2008 has violated petitioner's due process right and petitioner's civil rights and petitioner's constitutional rights of failure

and refusal to afford petitioner prior service of process and affair and an impartial hearing, a judicial or administrative hearing, conducted in accordance with due process. Wherefore, the conduct used by the district court and the First Circuit Court has violated petitioner's constitutional rights to be heard in a hearing to be recorded for the record guaranteed by the Fifth Amendment to the Constitution of the United States.

**See Amendment XIV 14<sup>th</sup> (1868)**

19 Merit Presented

Section 1. All persons born or naturalized in the United States and subject to the jurisdiction thereof are citizens of the United States and the state wherein they reside no state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States. Nor shall any state deprive any person of life, liberty, or property, without due process of law, nor deny to any person within the jurisdiction the equal protection of the laws.

**See Constitutional Law Key 2566**

20 Merit Presented

Constitutional Law Key 2566, the fundamental requirement of due process is the opportunity to be heard at a meaningful time and in a meaningful manner USCA Constitution Amendment 5. By means which Plaintiff Appellant has been deprived of his rights to due process of law, for the April 8, 1964 traumatic right elbow injury, which resulted in a

nervous breakdown, which has continued through the present in this case.

See Article VI

21 Merit Presented

Article VI of the Constitution makes the Constitution the "Supreme law of the land" in 1803 Chief Justice Marshall, speaking as a unanimous court referring to the Constitution as the fundamental and paramount law of the nation, declared in the notable case of Marburg V. Madison, that it is emphatically the province and duty of the judicial department to say what the law is.

22 Merit Presented

I, Petitioner Randolph E. Green, have a legal right to be heard in a hearing, and constitutional rights to be heard in a hearing and a due process right to be heard in a hearing and civil rights to be heard in a hearing in a court of law as a citizen of the United States.

**Merits Presented  
LIST OF PARTIES**

A list of all parties to the proceeding in this Court whose judgment is the subject of this petition for redress and relief as follows:

All parties appear in the caption of the case on the cover page.

The disclosure statement.

Randolph E. Green, Petitioner

United States Department of Labor

Secretary of Labor Elaine Chao

Watertown Arsenal

Department of the Army

United States Public Health Services Hospital

Carol Adams District Director

Edward Duncan Deputy Director

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THE ESTABLISHED CRITERIA OF APP 25 -67  
MEDICAL TREATMENTS . . . . .

**Merits Presented  
TABLE OF AUTHORITIES**

**Cases in support of Petitioner's Merit**

Soto Flores, 103.F 3d 1056.1061 (1 ct cir 1971)

Baker v. Carr 369 UA 198, 92, S. Ct. 691 Ed.23d 663 (1962) This civil action was brought under 42 USCA Section 1983 and 1988.

Cooper v. Aaron v 348.US 1.8 Sct.1401.L.Ed 2d 5 (1958)

Smith v. Wade 461.UA.30.50-51 (1983)

Clark v. Taylor 710 F 2d4. 16(C 1<sup>st</sup> cir.1983) Niga Supr.355.

Griffin v. Brackenridge 403 U 88 102 (1971)

Doe v. Board of Education of Honenegah Community High School District No. 2707, ND 111, 2993.838F. Supp. 1366.

Wilson v. Rackmill, 878 F. 2d 772 774 3 cir (1989).

Tyler v. Carter, 151 F.R.D. 537.5540 (S.D. N.Y. 1983)

As held in the 1993 Unites States Supreme Court Denton v. Hernandez 504 U.S. 25.112 S Ct. 1728.

Crew v. Petrosky D.C. PA 1981, 509 F. Supp 1199 Deception constituting fraud and liability thereof.

US ILL.7875 Nidd v. Burrows, 91 US 42.231 Ed 286

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U.S. N.H. 1951 Fraud Lord v Goddard, 45 US 198, 73 How, 198.14 L Ed. 111.

App. D.C. 1904 Tyner v. US, 23 App D.C.324.

C.C.A. Colo. 1925 Greeley National Bank v. Wolf 4F.IB.67.

C.C.A. NY Topping v. Trade Bank of New York, 96 F 2d 116.

D.C. 111, 1933 Fraud is deception brought about by misrepresentation of fact. RE: Bowman Hardware & Electric Co. F. Supp. 82 reversed C.C.A. 67 F.2d 792.

Punitive damages are recoverable in sec. 1983 suit where defendants' etal's conduct is unlawful and unconstitutional, depriving plaintiff appellant of his federally protected rights (see Smith V. Wade. 461 U.S. 30.50-51 (1983): Clark V. Taylor.710F.2d4. 14 (1<sup>st</sup> cir 1983) miga.supra.at.355.

Protected rights or privileges see Griffin V. Breckenridge 403 U.S. 88 102 (1071) I, Plaintiff Appellant Randolph E. Green, am the rightful living victim and witness who can give firsthand account, information who experienced on April 8, 1964 a traumatic right elbow injury at the Watertown Arsenal place of employment in the line of duty, which resulted in a nervous breakdown on September 30, 1964, which has continued through the present in this case.

Government officials' interference with Plaintiff Appellant's constitutional right of access to courts can give rise to cause of action under federal rights statute.

Doe V. Board of Education of Honenegah Community High School District No. 207, N.D. ILL.2993, 833 F. Supp. 1366. The right of access to the courts is protected by the due process clause of USCA Const. Amend. 14 and is also part of the right to petition protected by USCA Const. Amend.1. Crew V. Petrosky, D.C. pa1981, 509 F. Supp 1199.

Merits Presented

**THE ESTABLISHED CRITERIA OF MEDICAL  
REPORTS FROM THE U.S. PUBLIC  
HEALTH SERVICE HOSPITAL**

7/1/1964: Patient alleges he struck his right elbow on a hard surface on 4-9-1964 and had a "shooting pain" down the arm (felt like struck the funny bone) - since that time, he has had recurrent pain about the elbow but not always in the same site. No true weakness but general aching about the elbow at night usually. No numbness but occasionally "shooting pain".

Physical examination: Made by the U.S. Public Health Service Hospital Doctor recommendation of whirlpool treatments against Petitioner's right traumatic ulna neuritis has constituted unlawful conduct of medical malpractice of infliction of emotional stress.

Impression: Castalia, right elbow and forearm treatments with whirlpool vibration water pressure has caused. I, Petitioner Randolph E. Green, extended

damages to right traumatic ulna neuritis damage as the air pressure pallet gun.

Disposition: FIT FOR LIGHT DUTY. Whirlpool. Return to clinic in two weeks to the U.S. Public Health Service Hospital.

#### Doctors Visits

07/01/64  
07/02/64  
07/07/64  
07/08/64  
07/09/64  
07/13/64  
07/14/64  
07/15/64  
07/23/64  
07/30/64  
08/07/64  
08/12/64  
08/20/64  
08/31/64  
09/01/64  
09/22/64  
09/28/64  
10/21/64  
11/02/64  
11/03/64  
11/06/64  
11/09/64  
11/12/64  
11/19/64  
12/03/64

12/16/64  
CLINICAL RECORD  
CONSULTATION SHEET

To: United States Public Health /service Hospital,  
Brighton

From: Watertown Arsenal, Watertown MA 6 Nov, 1964

Reason for request (Complaints and Findings)

Green, Randolph E., 17706 contusions - right elbow - 8 April 1964. This man still complains of being unable to do regular duty. In my judgment he should be on regular duty, however, I am sending him to your for advice and re-evaluation.

11/6/64 - Surgical Clinic: Patient still complains of pain in right elbow. Since last visit patient has been seen by family physician, orthopedist, and neurologist. Now referred for re-evaluation.

Examination reveals no abnormalities. Full range of motion, right elbow with no deformity. No muscle atrophy of arm, forearm or hand. Impression: Deferred. No objective evidence of disease at this time. Disposition: X-ray of right elbow, fit for light duty, return to orthopedic consultant on 11/12/64.

On 11/12/64 was rescheduled for consult and again fit for light duty, for visit on 11/19/64. On 11/19/64 patient again rescheduled for 12/3/64 and was on light duty.

12/3/64 - Dr. Ulin's consultation: History taken by Dr. Ulin as above. In addition patient states vibration, nervousness, defecation also causes the pain in the arm. Examination is entirely negative. Patient has total hypoesthesia of the arm. No orthopedic pathology. Fit for full duty.

Patient returned to Orthopedic Clinic on 12/16/74 and was still having some symptoms. Requesting reveals that this patient is required in his usual job to work with a vibrating hammer xx machine. Fit for light duty -- no vibrating hammer (Pallet Gun) under any circumstances. No lifting over 20 lbs. No vibrating machine of any kind. Return to clinic on 1/13/65.

#### Clinical Record

#### Consultation

TL Dr. Ulin

From: Surgical Service

Date of request: 12/3/64

This man complains of pain in the right arm and mild discomfort from the elbow distally. He complains of an occasional "dead feeling". The pain is said to be related activity but although he says that it does interfere in some way with his work, it is not a severe complaint. He has been seen by many examiners previously and no diagnosis of orthopedic pathology has been made.

Physical Examination of the known objective damage to Petitioner's right traumatic ulna neuritis nerve damage was never diagnosed by not one doctor of all the appointment visits to the U.S. Public Health Service Hospital of approximately 26 appointment or more.

I find no demonstrable orthopedic pathology in this patient. This report comes from the U.S. Public Health Service Hospital doctors.

Sept. 27, 1966

Mr. Marcel Kistin  
6 Beacon Street  
Boston, Mass.

Re: Randolph Green Merits Presented

Dear Sir:

Following is a medical report of above named patient, injured in the performance of his duties on April 8, 1964.

Diagnosis: Right traumatic ulna neuritis.

Therapy: Physic-therapy, Analgesics for pain, Immobilization.

Disability

Office Visits: April 8, 1964  
First Aid      \$15.00  
April 15, 21, 28  
May 5, 12, 22, 26

June 5, 9, 16, 30

July 7, 14, 17, 24

Aug, 4, 7, 11, 15, 22, 30 \$105.00

Total \$8120.00

Very truly yours,

A. P. Bloomenthal M.D.

Feb. 3, 1967

Mr. Marcel Kistin

6 Beacon Street

Boston, Mass.

Re: Randolph Green

Dear Sir:

Following is a medical report of above named patient, injured in the performance of his duties on April 8, 1964.

Diagnosis: Right traumatic ulna neuritis.

Emotional Trauma Aggravated by injury to right ulna.

Therapy: Analgesics for pain, Physic-therapy, Immobilization, Valium 5mg. Entered V.A. Hospital 9/30-11/19/65

Disability Total 4/8/64-3/9/66

Partial Continuing

	Office Visits: April 8, 1964 First Aid	\$15.00
1964	April 15, 21, 28	
	May 5, 12, 22, 26	
	June 5, 9, 16, 30	
	Aug, 4, 7, 11, 15, 22, 30	
	Sept. 6, 20,	
	Oct. 4, 19,	
	Nov. 2, 16	
	Dec. 11, 22,	
1965	Jan. 12, 26	
	Feb. 2, 16,	
	Mar. 7, 1,	
	Apr. 17, 28,	
	May. 9, 19,	
	June 12, 22,	
	July 10, 21	
	Aug. 8, 22,	
	Sept. 6, 19, 26	
		\$240.00
	-----	\$255.00

Very truly yours,

A. P. Bloomenthal M.D.

A.P. Bloomenthal, M.D.  
5 Banks Street  
Waltham, MA 02154

Nov 6, 1969

Mr. Randolph Green has been under my care since Feb. 2, 1965 for Anxiety and Depression. He was

admitted to the V.A. Hospital on 9/30/65 and discharged on 11/19/65.

Previous to that time he was under treatment for right traumatic ulna neuritis aggravated by an injury to the right Ulna.

He was released from treatment at the V.A. Hospital on Mar. 9, 1966 to my care, and up to the present time he is under continuing therapy.

For any further information, feel free to call my office.

Very Truly yours,

A.P. Bloomenthal, MD.

Donald I. Campbell, M.D.  
Edwin W. Guiney, M.D.  
66 South Street  
Waltham, Mass. 02154  
Telephone 894-2096

December 21, 1964

To Whom It May Concern:

Re: Randolph Green

I saw Mr. Green for the second time on December 10, 1964, with no real change in his symptomatology. He is still having a cosalgic type of pain beginning in his right elbow, radiating into the wrist, hand, and fingers. This pain is aggravated by heavy repetitive work otherwise he finds that he is able to do his regular job quite satisfactorily.

His main complaint was that his pain was aggravated by using some sort of a riveting or cir-type of gun, which caused a jarring of his hand, wrist, and forearm. This seemed to aggravate his pain. I would think that if this type of work could be avoided, he should be continued in his regular job as we know that the symptoms that this man has, generally improve with time, though it may take many months.

If I can be of any further assistance in this matter, please let me know.

Respectfully yours,

Edwin W. Guiney, M.D.

Donald I. Campbell, M.D.  
Edwin W. Guiney, M.D.  
66 South Street  
Waltham, Mass. 02154  
894-2096

A.P. Bloomenthal, M.D.

Re: Randolph Green  
5 Banks Street

Employer: Watertown Arsenal  
Waltham, Massachusetts  
Age: 42 B.D. 11/13/21

Dear Doctor Bloomenthal:

I saw the above named patient in the Emergency Room of the Waltham Hospital today, with a history of having struck his right elbow on a metal corner while at work on April 8, 1964. Immediately following the injury, he had considerable pain and swelling throughout the whole of his elbow joint. He was treated with warm soaks at work. The immediate pain around the elbow gradually seemed to subside but he began to develop increasing pain with activity particularly with squeezing his fist, resting on his elbow or trying to reach above his head and turn anything. The pain has become progressively worse around the elbow, down the forearm with a sensation of numbness and weakness in the hand. He feels that this may have started on the ulnar side of his hand and has no spread toward the thumb, second and third finger. He also notes cramping in the forearm wrist and fingers when the hand is at rest. He had been treated at the Brighton Marine with physiotherapy with no improvement in his symptomatology.

On physical examination there is no atrophy of this arm. He has a full range of elbow motion, a full range of wrist motion, though his fingers do not seem to extend quite as far on this side as they do on the other, however, this is his right hand. He has full pronation, full supination. He has vague sensory loss through out the whole hand, forearm, and distal upper arm, which follows no neurological pattern. He has no real motor

weakness, though the right hand in grasp seems to be just slightly weaker than the left, even though he is right-handed. His reflexes are normal. Blood pressure in both arms is the same; pulses seem to be the same.

**IMPRESSION:**

I feel that this man is developing a cosalgia of his right arm and that there is no orthopedic problem present at this time. His x-rays were reviewed and they were also found to be negative. Therefore, I feel that he should be seen by a neurologist.

Jordan Joseph, M.D.  
Neurology  
21 Prospect St.  
Waltham, MA 02154

August 24, 1964

A.P. Bloomenthal, M.D.  
5 Banks Street  
Waltham, Massachusetts

RE: Randolph E. Green  
8 Woodbine Street  
Roxbury, Mass

Dear Dr. Bloomenthal:

I saw your patient, Randolph Green, in the office for the first time on August 21, 1964. He is a 42 year old Negro male who complains of pain in his right arm following an injury to the elbow on April 8, 1964. On that date while at work at the Watertown Arsenal, he

traumatized his elbow against a metal object. Following the trauma he had pain issuing from the elbow, down the inner aspect of his arm and into the fourth and fifth fingers. Since that time the pain has waxed and waned to a certain extent, tends to appear at any time, occasionally awakens the patient from sleep, and it is of an extremely intense, deep, and aching nature. It is also notable that although the pain may occur at any time, active use of the arm tends to exacerbate the pain. The pain, which initially involved the inter aspect of the arm, seems now on occasion to involve the entire forearm. He was seen by Dr. Guiney who reviewed his x-rays and found no orthopedic problem present.

On examination no neurological difficulties were noted except those related to his right arm. It is noted that the right ulnar nerve is quite tender to palpations and one can easily induce the type of pain of which he complains. When similar manipulation of the left ulnar nerve is performed paresthesias appear but are not of the intensity of those seen on the right. Reflexes in the right arm, biceps, triceps, and brachialradialis, appear within normal limits. It is difficult to determine sensory loss to pin prick, but that a distinct loss to pin prick over the ulnar side of the right hand was obtained. This has to be rechecked. Distinct wasting of small musculature of hand or weakness was not noted on this occasion, but he is reluctant to use the right hand. The left hand seems slightly more moist than the right, but this observation needs to be rechecked and the patient himself shall observe difference in degrees of sweating. It is notable that there is no hypersensitivity of the right hand or arm to touch.

Impression: Right ulnar neuritis related to trauma.

Recommendation: I would consider conservative therapy most important at this time. I suggested to Mr. Green that he maintain his right arm in a splint for a week or two, and that we observe the results of this treatment. He is also to passively exercise his right hand and arm to prevent stiffening three times a day and to soak it two to tree times a day in warm water. I also suggested that he take aspirin for pain. I plan to see Mr. Green again in two weeks.

Thank you for referring Mr. Green.

Sincerely yours,

Jordan Joseph, M.D.

JJ:nb

Jordan Joseph, M.D.  
Neurology  
21 Prospect St.  
Waltham, MA  
Tel. RE4-7840

September 25, 1964  
Re: Randolph Green  
Dispensary  
Watertown Arsenal  
Watertown, Massachusetts

Dear Sir:

I saw Mr. Green on August 21, 1964 and on September 3, 1964 in relation to an injury received at the Watertown Arsenal. At the request of Mr. Green, I am sending you my opinion. I found Mr. Green to have an ulnar neuritis on the right related to trauma to the ulnar nerve at the elbow. Since continued activity of right arm seems to aggravate his symptoms, I suggested that the activity he partakes in be diminished. I believe that the prognosis in this situation is good, but there are suggestions of causalgic type pain, and also the possibility of the development of a tardy paralysis.

Mr. Green seems to be a fairly solid man and I suspect the pain of which he is complaining is quite genuine. I believe he should be watched further until abatement of symptoms is quite distinct. The possibility of a neurolysis should be kept in mind should his symptoms worsen. As his symptoms decrease a program of gradually increasing activity of the right arm should be undertaken. I have currently advised sufficient activity of the right arm to avoid any disuse complications.

If you desire any further information from me, I shall be only too happy to forward it to you.  
Sincerely yours,

Jordan Joseph, M.D.  
JJ:RSB

Jordan Joseph, M.D.

Neurology  
21 Prospect St.  
Waltham, Mass.  
Tel. Re4-7840

A.P. Bloomenthal, M.D.  
5 Banks St.  
Waltham, Mass.

Dear Dr. Bloomenthal,

I again saw your patient, Randolph Green, on September 3, 1964. He states that since keeping his arm in a sling, minimal improvement has occurred. Findings today are similar to those of August 24, in that a diffuse diminution to pin prick is present over the right forearm and hand. Today it seems as if the right hand is sweating more than the left.

No diminution in strength is noted. The only disturbing new feature is that the patient now recollects that, superficial stimuli occasionally evoke a severely painful response and, on one occasion in the past two weeks this was noted. The implication of this is that a causalgic syndrome might be developing and on this basis I shall continue to stay in contact with the patient.

He has other complaints, such as cramps in his feet, which I do not believe, are of significance. I have drawn a blood Wasserman on the patient.

Impression: Right ulna neuritis, possibly slightly improving.

Recommendation: To continue with passive exercises and sling, if this continues to prove helpful. I am planning to see him again in about one month.

Sincerely yours,

Jordan Joseph, M.D

Jordan Joseph, M.D.  
Neurology  
21 Prospect St.  
Waltham, MA.  
Tel. Re4-7840

October 6, 1964  
Re: Randolph Green

A.P. Bloomenthal, M.D.  
5 Bank Street  
Waltham, Massachusetts

Dear Dr. Bloomenthal,

I again saw Randolph Green on Friday, October 2, 1964. Since last seen, Mr. Green has noted continuous improvement in the function of his right hand and has been noting less and less pain. Examination today: There is slight diminution to pin prick on the ulna side of the right hand and no evidence of atrophy is noted. Previously noted suggestions of causalgic pain have not recurred.

Impression: Right traumatic ulna neuritis improving.

Recommendations: I suggested to Mr. Green that he gradually increase the use of his right arm as the pain subsides, but should not use his right arm to the degree that recurrent pain is noted. I suggested to Mr. Green that he let me know in the future should his symptoms become worse and that I would like to see him in any case again in three or four months to be certain at that time no evidence of ulna nerve damage is present.

Thank you for referring Mr. Green.

Sincerely yours,

Jordan Joseph, M.D.

Jordan Joseph, M.D.  
Neurology  
21 Prospect St.  
Waltham, Mass.  
Tel. RE4-7840

March 24, 1965

Re: Randolph Green  
8 Woodbine Street  
Roxbury, MA. 02119

A.P. Bloomenthal, M.D.  
5 Bank Street  
Waltham, Massachusetts

Dear Dr. Bloomenthal,

I saw Mr. Randolph Green in the office on March 18 and on March 23, 1965, for further evaluation. Apparently Mr. Green resigned his job at the Arsenal on February 2, 1965. He apparently resigned because he felt hat he was being mistreated there. He feels that they made him use his right arm more than necessary; he feels that on occasion acid was spilled on him, not accidentally, and he feels that they used various techniques to purposely aggravate him. How much is true in his thinking about this matter, and how much is related to his paranoid feeling about the Arsenal is difficult to be certain of.

When his wife came to the office on March 23, 1965, she feels that there has been no significant personality change, except during the past month or so he has possibly been a little more depressed than usual. She does not note any distinct memory changes in his behavior.

On looking into his mental situation a bit, he is found to have a vocabulary score compatible with an I.Q. of around 75. The Wechsler Memory Scale reveals a memory quotient consistent with an I.Q. of approximately 80. The only disturbing feature noted is a rather sever difficulty with drawings. On the Benton Visual retention Test he again reveals approximately 80. It is also to be noted that he has had a fourth grade education in the South and he was discharged from the Army after 8 months service for unknown reasons. On physical examination today there is slight tenderness over the ulnar nerve at the elbow on the right, but no other significant findings.

**Impression:** This is a very simple man who, on mental testing, reveals signs slightly suggestive of a cerebral degenerative process. His basic intelligence, however, is so low that it is impossible to be in any way certain of this. Psychologically he is somewhat paranoid about the Arsenal, but not too psychotic proportions.

**Recommendations:** I suggested to this man that the healthiest thing he could do is find a way to keep himself busy by working. I have not written the Veterans Bureau about him, as he feels that he would prefer that you handle this situation.

If I can be of any further service to you in this regard, do not hesitate to let me know.

Sincerely yours,

Jordan Joseph, M.D.

Jj/rsb

#### NARRATIVE SUMMARY

**DIAGNOSIS:** Schizophrenic Reaction, Schizoaffective Type, manifested by withdrawal, depression, and some paranoid thinking, in partial remission.

**EXTERNAL PRECIPITATION STRESS:** Injury at work.

**PREDISPOSITION:** Undetermined.

**DEGREE OF INCAPACITY:** Modesto.

**COMPETENCY: COMPETENT.**

H. Markey, M.D.  
Ward Physician

Stephen W. Meagher. M.D.  
520 Commonwealth Avenue  
Boston, Mass. 02215

**STATEMENT OF THE BASIS FOR  
JURISDICTION**

Pursuant to the Supreme Court jurisdiction of Title 28 USCA Section 1254 (1) that empowers the Supreme Court to entertain the certiorari wherefore in this proceeding in this court in which the constitutionality of an act of Congress is drawn into question.

The constitutional criteria of the 1964 Federal Civil Rights Act has been established for the Negro, Black, Woman and Man of Color pursuant to the United States Code Annotated Title 42 USCA Sections, 1981, 1982, 1983, 1988, and 2000A2. Wherefore Petitioner, who is a Negro, Black, Man of Color, and family members reside, has been discriminated with gross injustice and hardship against Petitioner and Petitioner's wife and eight (8) dependent children.

Wherefore the First Circuit Court Judges' own misconduct actions taken against Petitioner by the judgment entered on March 19, 2008; before and without affording Petitioner a fair and impartial

hearing, a judicial or administrative hearing conducted in accordance with due process. Wherefore the order of judgment is null and void.

The First Circuit Court of Appeals Judges' own malicious conduct of denying Petitioner for rehearing en banc filed by Appellant, Randolph E. Green 07-2355 appeal dismissed on June 20, 2008 before and without affording Petitioner a fair and an impartial hearing, a judicial or administrative hearing conducted in accordance with due process. The order of dismissal of the appeal on June 20, 2008, is null and void on the grounds that the order of judgment and the order of dismissal do not comply with constitutional criteria of due process that has been established by Amendment V (1791).

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## **STATEMENT OF THE CASE INVOLVING MEDICAL TREATMENT**

1. I, Randolph E. Green, was an employee of the Watertown Arsenal, a Department of the Army, as the number one all round welder. On April 8, 1964 I injured my right elbow in the line of duty at work and as a result of my injury I suffered right traumatic ulna neuritis emotional trauma aggravated by injury to right ulna diagnosed by Dr. A. B. Bloomenthal, M.D. on or about April 15, 1964.

2. On or about July 1, 1964, I, Randolph E. Green was treated at the US Public Health Service Hospital with whirlpool physio-therapy of 28 times. The 28 whirlpool treatments constituted access of punitive infliction of emotional distress damages against my health and welfare treatments at the hospital.
3. On or about November 2, 1964, November 19, 1964, December 3, 1964, and December 16, 1964 orthopedic surgery Dr. Ulin, MD. Fit for light duty - no vibrating hammer pallet gun under any circumstances, no lifting over 20 pounds, no vibrating machines of any kind and return to clinic on January 13, 1965.
4. I, Randolph E. Green, saw Dr. A. P. Bloomenthal for my injury in performance of my duties on April 8, 1964 first aid. Diagnosis right traumatic ulna neuritis therapy, physio-therapy analysis for pain immobilization, disability, and office visits April 8, 1964 first aid \$15.00. I was treated from on or about April 8, 1964 by Dr. A. P. Bloomenthal for about 30 treatments on 1964 and about 18 treatments in 1965 diagnosis - right traumatic ulna neuritis, emotional trauma aggravated by injury to right ulna. Valium 5 mg, entered VA Hospital on September 30, 1965 and was released from VA Hospital on or about November 22, 1965; released from VA Hospital treatments on or about March 9, 1965 under continuing therapy by Dr. Bloomenthal.

5. On or about August 14, 1964 and December 20, 1964, I, Randolph E. Green, saw Dr. Edwin W. Guiney - Orthopedic MD. He is still having cosalgia, type of pain was aggravated by heavy repetitive work; otherwise he finds that he is able to do his regular job quite satisfactorily. His main complaint was that his pain was aggravated by using some sort of a riveting air type gun which caused a jarring of his hand, wrist, and forearm. This seemed to aggravate his pain.
6. On August 21, 1964, September 3, 1964, October 2, 1964, March 23, 1965, I, Randolph E. Green saw Dr. Jordan Joseph - Neurology MD, placed my arm in a sling. Impression: right ulna neuritis related to trauma on March 18, and an on March 23, 1965 for further evaluation. Apparently Mr. Green resigned his job at the Arsenal on February 2, 1965 because he felt that he was being mistreated.

He feels that they made him use his right arm more than necessary, he feels that on occasion acid was spilled on him, not accidentally, and he feels that they used various techniques to purposely aggravate him.

7. On September 30, 1965, I, Randolph E. Green was admitted to the VA Hospital for about two months - diagnosis schizophrenic reaction, schizo-affective type, manifested by withdrawal depression, and some paranoid I was in the VA

Hospital from September 30, 1965 through November 22, 1965.

External precipitating stress injured at work predisposition: undetermined prognosis of incapacity moderate.

Signed by H. Markey  
Ward Physician

SWM:lar

Statement of accepted facts in Case No. A1-42911  
Randolph E. Green

The Bureau accepts as factual that Randolph E. Green born November 13, 1921 sustained a contusion of the right elbow as the result of striking his right elbow against the leg of a table at work on April 8, 1964, that he resigned February 2, 1966 because disability related to injury of April 8, 1964 was being aggravated by working from September 30, 1965 to November 19, 1965. He was a patient at the VA Hospital, Bedford, MA. Diagnosis - schizophrenic reaction, schizoaffective type manifested by withdrawal, depression and some paranoid thinking in partial remission and that the external precipitating stress injured on April 8, 1964 signed by Dr. H. Markey of the VA Hospital on September 30, 1965.

Bureau of Employee Compensation

In the matter of the claim for compensation under the Federal Employers Compensation act of

Randolph E. Green - claimant, employed by Department of the Army- Watertown Arsenal, Watertown, Massachusetts.

Such investigation in respect to the above claimant above named, having been made as is considered necessary, and after due consideration of such claim and Report of Record, the Bureau makes the following

Award

Accrued compensation as follows: the sum of \$6,097.36 covering the period November 26, 1965 to January 12, 1967, inclusive of the then sum of \$383.15 for the period January 13, 1967 to February 5, 1967 fraction a day inclusive - Total award \$6,097.36 by the office and the Secretary of Labor - Bureau of Employees Compensation Program.

That the Claimant is entitled to augmented compensation for Dependents. Wherefore, I, Petitioner Randolph E. Green have never received my checks for augmented compensation benefits for my wife, Melba L. Green and my eight (8) dependent children; namely Dolly I. Green born October 21, 1950, William M. Green born August 1, 1953, Edward D. Green (deceased) born December February 5, 1956, Minnie S. Green born July 29, 1957, Elizabeth A. Green born June 4, 1959, Craig A. Green born July 16, 1961, Jonathan D. Green born March 16, 1963, and Kimberly D. Green born August 18, 1964.

Pursuant to the strict interpretation of the letter of the law of the Constitution of the United States by

means wherefore the Secretary of Bureau of Employees Compensation has deprived me of my legal right of due process and made their decision and took action in my Case No. A1-42911 and made a determination evaluation of Petitioner Randolph E. Green's health and welfare condition of that as a result of such injury, the Claimant has permanent disability equivalent to 20%, permanent partial loss of use of the right arm, before and without a medical doctor's evaluation and before and without affording Petitioner Randolph E. Green, a fair and impartial hearing. A judicial or administrative hearing, conducted in accordance with due process.

The record will clearly show by the preponderance of the evidence beyond a reasonable doubt that the Secretary of the U.S. Department of Labor Bureau of Employee Compensation took, action and issued an award on January 18, 1967 in the amount of \$6,097.36 and two days later the U.S. Department of Labor, Secretary of Labor, Et. al., Bureau of Employees Compensation Program issued a check to me in the amount of \$6,097.36 before and without affording Petitioner Randolph E. Green a fair and impartial hearing; a judicial or administrative hearing conducted in accordance with due process. A second check was issued in the amount of \$383.75 on February 16, 1967 to Petitioner of a full settlement, which I refused to settle for.

On or about February 8, 1975, I, Randolph E. Green wrote my attorney - Michael S. Kistin at 6 Beacon and disagreed with the amount of \$6,480.51 check due to the fact that there are more fees to be

claimed, Signed by me, Randolph E. Green on February 8, 1967.

The record will clearly show by the preponderance of the evidence beyond a reasonable doubt that the office of the Secretary of Labor, Compensation Program took action and terminated my, Randolph E. Green, worker's compensation program benefits on January 18, 1967, before and with affording Petitioner prior service of process and a fair and impartial hearing. A judicial or administrative hearing conducted in accordance with due process guaranteed by the Fifth Amendment due process clause of the Constitution of the United States of America.

I, Petitioner, Randolph E. Green saw Dr. Stefan Krause, M. D. on February 24, 1979 for a psychiatric evaluation/. He gave history of being hospitalized at the Bedford, MA VA Hospital in 1965. Petitioner has a 4<sup>th</sup> grade education.

My diagnosis of this patient is schizophrenic reaction: paranoid type depression. My recommendation was that he be hospitalized and given a course of electric shock treatments which I felt might be beneficial to him in view of his depression and the paranoid element of his psychosis.

I, Petitioner, Randolph E. Green saw Dr. Daniel M. Weiss and was examined on May 24, 1979, June 6, and on June 14, 979 it would appear that this man was injured while at work and that this claim of injury has been documented elsewhere and that this injury took place on April 8, 1964, some fifteen years ago. It

further appears that he had become schizophrenic subsequent to that injury and various examinations by psychiatrists have concluded that the schizophrenic condition was a result of the physical injury which he had sustained and which has been previously mentioned. Signed by Dr. Daniel M. Weiss.

The U.S. Department of Labor office of Workers Compensation Program's compensation finding of facts will clearly show that he record by order of the Director, OWCP David T. Woods - Chief Branch of Claims of June 1, 1985, that the parties involved made their own evaluation of Petitioner's health and welfare condition before and without affording me, Petitioner Randolph E. Green, a fair and impartial hearing. A judicial or administrative hearing conducted in accordance with due process.

I, Petitioner Randolph E. Green saw Dr. Jon Papajohn, PhD., Consultant Psychologist on December 20, 1989. This is a summary of my evaluation of December 20, 1989.

My impression in interviewing Mr. Green was that the statements he made to me were a truthful representation of the facts. I strongly believe his case merits further re-examination in light of these facts.

I, Petitioner Randolph E. Green, declaration, 28 USCA Section 1746 of Petitioner Randolph E. Green, dependent wife Melba L. Green, and eight (8) dependent children whose ages when I was injured on April 8, 1964:

Dollie L. Green born October 21, 1953; William M. Green born August 1, 1954; Edward D. Green born February 5, 1956; Minnie S. Green born July 29, 1957; Elizabeth A. Green born June 4, 1959; Craig A. Green born July 16, 1961; Jonathan D. Green born March 16, 1963; and Kimberly D. Green born August 18, 1964.

Judge Rya W. Zobel  
Order of Dismissal  
CA No. 07-10385

Order for Dismissal on July 30, 2007  
Zobel D. J.

In accordance with Memorandum #41 dismissing this action for the reason stated therein, it is hereby ordered that the above captioned matter is dismissed in its entirety with prejudice by the Court /s/ Lisa Unso Deputy Clerk.

Judge Zobel's order of dismissal of CA. No. 07-10385 is in conflict of interest with Petitioner Randolph E. Green's Fifth Amendment due process right. Wherefore such action taken against Petitioner Randolph E. Green on July 30, 207 before and without affording me, Petitioner, a prior service of process, and a fair and impartial hearing. A judicial or administrative hearing conducted in accordance with due process. Wherefore, the proceeding in this court in which the constitutionality of an act of Congress is drawn into question.

Judge Rya W. Zobel's Conclusion  
In Case No. 07-10385

Based on the foregoing it is hereby  
ordered that this action is dismissed  
In its entirety with prejudice.

Pursuant to 28 USC Sec. 1915(S) (3) and Fed. R. App P 24(S) (3) this court finds and hereby certifies that any appeal taken by Plaintiff of the dismissal of this action would not be taken in good faith, and Plaintiff is warned that further frivolous complaints may result in sanctions – so ordered. Dated July 30, 2007 Rya W. Zobel United States District.

The action taken against Petitioner on July 30, 2007, by Judge Rya W. Zobel by means has constituted deprivation of Federal Constitutional Rights guaranteed by the due process clause of the Fifth, Thirteenth, and Fourteenth Amendments to the Constitution of the United States of America. Wherefore Judge Zobel's court is an agency involved in this Court and the proceedings in this Court in which the constitutionality of an act of Congress is drawn into question

Judge Rya W. Zobel's actions taken against Petitioner's legal rights of procedural due process in the lower court. Judge Zobel has deprived Petitioner of the Fifth Amendment due process clause right to the Constitution of the United States of America, and the Equal Protection Clause Right of the Fourteenth Amendment of the Constitution of the United States of America. Wherefore, in this proceeding in this Court in which the constitutionality of an act of Congress is

drawn into question. Wherefore, I, Petitioner Randolph E. Green emphasize oral argument in this Court, Where I, Petitioner have been denied and have been deprived of my right to a day in court involving Case No. A1-42911, Case No. 07-10835, and Case No. 07-2355. Wherefore, I, Randolph E. Green emphasize oral argument pursuant to Rule 28, oral argument is requested in this Court. Petitioner has never had a day in court.

United States Court of Appeal  
For the First Circuit

No. 07-2355

Randolph E. Green  
Plaintiff Appellant

v.

United States Department of Labor, Et. al.  
Defendants Appellants

Before Torruella Circuit Judge  
Stahl, Senior Circuit Judge  
And Howard Circuit Judge

Judgment  
Entered March 19, 2008

The District Court denied Plaintiff's motion for leave to proceed on Appeal in Forma Pauperis. We conclude that there was neither error of law nor abuse of discretion in the District Courts IFP

determination. The motion for leave to proceed on Appeal IFP is denied and the Appeal is dismissed. See 1<sup>st</sup> Cir. Loc. R.27.0 (c).

The Appeal Court judges took action against Plaintiff and dismissed Plaintiff's appeal before and without affording Appellant a fair and impartial hearing. A judicial or administrative hearing conducted in accordance with due process right. The proceeding in this Court in which the constitutionality of an act of Congress is drawn into question in the Supreme Court of the United States of America.

United States Court of Appeal  
For the First Circuit

No. 07-2355

Randolph E. Green  
Plaintiff Appellant

v.

United States Department of Labor, Et. al.  
Defendants Appellants

Petition filed by Appellant Randolph E. Green for en banc hearing or rehearing en banc certificate of service was not include 07-2355 05-05-2008.

Public Docket not constitutional challenge of Federal Statute filed by Appellant Randolph E. Green questioning the constitutionality of an act of Congress pursuant to Rule 44(§) 07-2355.

Order granting motion to file oversize pleading filed by Appellant Randolph E. Green 07-2355.

Order entered by Sandra L. Lynch, Chief Appellate Judge; Juan R. Torruella, Appellate Judge; Michael Boudin, Appellate Judge; Kermit V. Lopez, Appellate Judge; and Jeffery R. Howard Appellate Judge denying Petition for rehearing en banc filed by Appellant Randolph E. Green on June 20, 2008 mandate issued on July 8, 2008. This order of denial was entered June 20, 2008 against Petitioner before and without affording Petitioner a fair and impartial hearing. A judicial or administrative hearing conducted in accordance with due process. Wherefore the proceeding in this Court in which the constitutionality of an act of Congress is drawn into question in the Supreme Court of the United States of America.

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**PETITION FOR A WRIT OF CERTIORARI OR  
APPEAL OR APPEAL**

This is a 1964 Civil Rights Act, it is a federal Workers' Compensation Acts Case, it is an unfair labor practice case and is in violation of Federal Digest 32; and the Petitioner Randolph E. Green respectfully petitions for a Writ of Certiorari or Appeal or Appeal to review the dismissals by the lower courts. Petitioner

has been fighting this case for over forty-four (44) years.

- A. Compelling reason for petition for Writ for Certiorari, wherefore, the proceeding in this court in which the constitutionality of an act of Congress is drawn into question. The Secretary of Labor, US Department of Labor, Et. al. are parties in violation of the Petitioner's due process right.
- B. I, Petitioner, Randolph E. Green, am a citizen of the United States of America and am a resident residing in the Commonwealth of Massachusetts; by means who is a pro se Black, Man of Color who has been deprived of being afforded a fair and impartial hearing. A judicial or administrative hearing conducted in accordance with due process as it is written and guaranteed by the due process clause of the Fifth Amendment to the Constitution of the United States, 42 USCA Section 1983.
- C. Wherefore, I, Petitioner Randolph E. Green and my wife, Melba L. Green and my eight (8) dependent children who reside at 8 Woodbine Street – Roxbury, Massachusetts 02119; who have been discriminated against with gross injustice and hardship involving Case No. A1-42911. Secretary of Labor, US Department of Labor and in Case No. 07-10853RWZ Judge Zobel District Court and in Case No. 07-2355 in the First Circuit court of Appeal; who has deprived me, Petitioner Randolph E. Green, of a

fair and impartial hearing. A judicial or administrative hearing, conducted in accordance with due process clause of the Fifth Amendment to the Constitution of the United States, 42 USCA Section 2000A2 Racial Discrimination. There has been no appeal heard in the appeal court.

D. The United States Department of Labor/Secretary of Labor Et. al. have constituted racial discrimination and concealment of Petitioner Randolph E. Green's hospital reports and all my medical Doctor's evaluation medical reports with gross injustice and hardship in depriving Petitioner Randolph E. Green of full disclosure of my medical doctors medical evaluation reports involving my injury of April 8, 1964, in the line of duty and my injury of September 30, 1965. The proceeding in this Case No. A1-42911, and in case No. 97-10835 RWZ and in Case No. 07-3255, in the First Circuit Court of Appeal. The proceeding in this court which the constitutionality of an act of Congress is drawn into question pursuant to deprivation of federal constitutional rights, 42 USCA Sections 1983, 1981, 1985(3), 1988, 2000a2 and Title 5 USCA Sections 8107 and 8110.

#### Evidence of Hearing

E. I, Petitioner Randolph E. Green have never been afforded a fair and impartial evidentiary hearing, a judicial or administrative evidentiary hearing conducted in accordance with due

process in Case No. A1-42911 FECA, U.S. Department of Labor case and the U.S. Federal District Court Case CA No. 07-10835 and the First Circuit Court of Appeal Case No. 07-2355.

**A Fair and Impartial Hearing**

F. I, Petitioner Randolph E. Green have never been afforded a fair and impartial hearing. A judicial or administrative hearing conducted in accordance with due process in Case No. A1-42911, FECA, U.S. Department of Labor administrative case and the U.S. Federal District Court Case No. 07-10835 and the First Circuit Court of Appeal Case No. 07-2355.

**A Fair and Impartial Hearing**

G. I, Petitioner Randolph E. Green have not been afforded a fair and impartial full hearing, a judicial or administrative full hearing conducted in accordance with due process in case No. A1-42911 FECA U.S. Department of Labor administrative case and the U.S. Federal District Court Case No. 07-10835 and the First Circuit Court of Appeal Case No. 07-2355.

H. Petitioner's compelling reasons for petition for Writ of Certiorari or Appeal on the merits wherefore the United States Department of Labor/Secretary of Labor and the U.S. Federal District Court Judge Rya W. Zobel and the U.S.

First Circuit Court of Appeals Judges Et. al. have deprived Petitioner Randolph E. Green of the procedural due process legal right before and without affording Petitioner Randolph E. Green a fair and impartial hearing. A procedure judicial or procedure administrative hearing conducted in accordance with procedural due process wherefore the proceeding this court in which the constitutionality of an act of Congress is drawn into question.

- I. Wherefore the proceeding in this court, the Supreme Court of the United States in which the constitutionality of acts of congress is drawn into question. Pursuant to United States Code annotated Title 5 USCA Section 8107, involving Compensation Schedule pay have been violated and Section 8110 violated against Petitioner augmented compensation benefits for dependents was terminated and violated on January 18, 1967, before and without affording Petitioner Randolph E. Green a fair procedural and impartial hearing. A judicial or administrative hearing conducted in accordance with due process of law involving Case No .A1-42911 of the employees' workers compensation program involving the April 8, 1964 injury and the September 30, 1965 nervous breakdown injury at work in the line of duty.
- J. I, Petitioner Randolph E. Green, am entitled to redress for grievances and am entitled to relief by law against the Defendants Respondents Et. al. for violating the United States Code

annotated Title 42 USCA Section 1981, Equal Rights under the law. The proceeding in this Court in which the constitutionality of an act of Congress is drawn into question.

- K. Wherefore, I, Petitioner Randolph E. Green, am entitled to redress for grievances and am entitled to relief from the Defendants Respondents Et. al. for violation of United States Code annotated Title 42 USCA Section 1983, deprivation of rights against Petitioner. Wherefore the proceeding in this Court in which the constitutionality of an act of Congress is drawn into question. For violation of Petitioner's civil rights pursuant to Title 42 USCA Section 1983.
- L. Petitioner is entitled to redress for grievance and is entitled to relief from the Defendants Respondents Et. al. for violation of the United States Code annotated Title 42 USCA Section 1985 (3) conspiracy against Petitioner with gross injustice and hardship. The proceeding in this Court which the constitutionality of an act of Congress is drawn into question.
- M. Petitioner, Randolph E. Green is entitled by law to redress for grievance inflicted against Petitioner and Petitioner is entitled to relief from the Defendants Respondents Et. al. for violation of United States Code annotated Title 42 USCA Section 1988. The proceeding in Court in which the constitutionality of an act of Congress is drawn into question.

N. I, Petitioner Randolph E. Green, am entitled to redress for grievances and relief for inflicting of emotional stress damaged and inflicting of punitive damages and for pain and suffering damages against Petitioner's health and welfare by the Defendants Respondents Et. al. for racial discrimination with gross injustice and hardship of (1) concealment of the medical records, (2) interfering with Petitioner's Civil Rights, (3) withholding and depriving Petitioner of my right and privileges secured by Title 42 USCA Section 2000A1 or 2000A2, (4) withholding full disclosure of the exculpatory evidence of all Petitioner's medical doctors' evaluation medical reports of the medical evidence involving Petitioner's damaged health and welfare in Case No. A1-42911 involving violation of Title 42 USCA Section 2000a2. The proceeding in Court in which the constitutionality of an act of Congress is drawn into question.

O. The record of Case No. A1-42911 will clearly show by the preponderance of the evidence beyond a reasonable doubt, by the medical doctors' evaluation medical reports who have treated Petitioner from on or about April 8, 1964 through on or about December 20, 1989 is self-explanatory. That the Defendants Respondents Secretary of Labor Et. al. have violated Title 5 USCA Section 8107, compensation schedule against Petitioner on January 18, 1967 and terminated Petitioner's compensation process and a fair and impartial hearing. A judicial or

administrative hearing conducted in accordance with due process. Wherefore, the proceeding in Court in which the constitutionality of an act of Congress is drawn into question.

P. The record of Case No. A1-42911 will clearly show by the preponderance of the evidence beyond a reasonable doubt that the Secretary of Labor Et. al. terminated on January 18, 1967 Petitioner's augmented compensation pay benefits for my wife and eight (8) dependent children's augmented compensation pay benefit which they were entitled to until they all had finished high school or as long as they were in school. Wherefore the Respondents Secretary of Labor Et. al. have constituted violation of Title 5 USCA Section 8110 against Petitioner, my wife and my eight (8) children before and without affording Petitioner a fair and impartial hearing. A judicial or administrative hearing conducted in accordance with de process. Wherefore, the proceeding in Court in which the constitutionality of an act of Congress is drawn into question.

Q. Wherefore, I, Petitioner Randolph E. Green, whose employment in the Watertown Arsenal Agency had ceased because of unfair labor practice by the Defendants Respondents Watertown Arsenal official supervisor Et. al. who refused and deprived Petitioner Randolph E. Green of being afforded light duty work required

by medical doctors of the U.S. Public Health Service Hospital in Brighton, Massachusetts involving Petitioner's April 8, 1964 injury at work in the line of duty. Wherefore, the Defendants Respondents Et. al. violated Title 5 USCA Section 7103 Act and 7116 Act of Congress. The proceeding in Court in which the constitutionality of an act of Congress is drawn into question.

R. The record will clearly by the preponderance of the evidence beyond a reasonable doubt involving Case No. A1-42911 FECA case where the U.S. Department of Labor Secretary of Labor Et. al. Respondent have violated the Federal Digest 32 by defrauding, depriving, withholding, and terminating Petitioner Randolph E. Green's compensation pay benefits and my wife, Melba L. Green and my eight (8) dependent children augmented compensation pay benefits on January 18, 1967 before and without affording Petitioner a fair and impartial hearing. A judicial or administrative hearing conducted in accordance with due process. Wherefore, in fact Petitioner has never received an augmented compensation check for dependents. The proceeding in Court in which the constitutionality of an act of Congress is drawn into question, involving the Fifth Amendment to the Constitution of the United States of America.

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## OPINIONS BELOW

The Appeal dismissed on June 20, 2008; before and without affording Petitioner a fair and impartial hearing. A judicial or administrative hearing conducted in accordance with due process in which the constitutionality of an act of Congress is drawn into question.

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## CONCLUSION

The United States Department of Labor, Secretary of Labor Etal. in Case no. A1-42911 terminated Petitioner Randolph E. Green's compensation pay benefits on January 18, 1967, before and without affording Petitioner Randolph E. Green a fair and impartial hearing. A judicial or administrative hearing conducted in accordance with due process. Wherefore the Secretary of Labor Et. al. have constituted deprivation of federal constitutional rights against Petitioner Randolph E. Green in violation of Title 42 USCA Sections 1981, 1983, 1985(3), 1988, and 2000a2, and Title 5 USCA Sections 8107, 8110, 7103, and 7116. The proceeding in this Court in which the constitutionality of an act of Congress is drawn into question.

The United States Federal District Court Judge Rya W. Zobel's order of dismissal of Civil Action No. 07-10885 in its entirety with prejudice before and without affording Petitioner Randolph E. Green a fair and impartial hearing. A judicial or administrative hearing

conducted in accordance with due process in a court of law. Wherefore Judge Zobel has constituted conflict interest against Petitioner Randolph E. Green's due process legal right in violation of federal constitutional rights guaranteed by the due process clause of the Fifth Amendment to the Constitution of the United States of America – Title 42 USCA Sections 1981, 1983, 1985(3), 1988, and 2000a2, and Title 5 USCA Sections 8107, 8110, 7103, and 7116. The proceeding in this Court in which the constitutionality of an act of Congress is drawn into question.

Wherefore the U.S. Court of Appeal for the First Circuit Judges, namely Sandra L. Lynch – Chief Appellate Judge, Juan R. Torruella, Appellate Judge; Michael Boudin, Appellate Judge; Kermit V. Lopez, Appellate Judge; and Jeffery R. Howard Appellate Judge denying Petition for rehearing en banc filed by Petitioner Randolph E. Green in Case No. 07-2355. Wherefore the First Circuit of Appeals Court five judges took action against Petitioner Randolph E. Green on June 20, 2008 and denied and deprived Petitioner before and without affording Petitioner Randolph E. Green a fair and impartial hearing. A judicial or administrative hearing conducted in accordance with due process. Wherefore the Judges of the First Circuit Appeal Court have constituted conflict of interest against the Fifth Amendment due process clause right.

The Secretary of Labor Etal and the U.S. Federal District Court Jude and the First Circuit Court of Appeals 5 judges Etal, all combined have used wrongful

conduct of subjected violation which has constituted a conflict of interest – in violation of the established constitutional criteria of the Fifth Amendment due process right against me, Petitioner Randolph E. Green on January 18, 1967, June 25, 2007, July 30, 2007, March 19, 2008 and on June 20, 2008 – before and without affording Petitioner prior service process of a fair and an impartial hearing; a judicial or administrative hearing conducted in accordance with due process of federal law.

Wherefore all the actions that have been taken against Petitioner by the Secretary of Labor et. al, by the District Court judge, and by the Fists Circuit Court of Appeal 5-judges Etal is null and void. Where the Secretary of Labor et. al. and the court judges have willfully failed to afford Petitioner the established criteria of the fundamental requirement of due process is the opportunity to be heard at a meaningful time and in a meaning manner. USCA Constitution Amendment 5.

Wherefore the United States Department of Labor, Secretary of Labor Et. al. and the District Court Judge and the First Circuit Appeal Court Judges have all violated Petitioner Randolph E. Green's constitutional rights guaranteed by the Fifth, Thirteenth, and Fourteenth Amendments to the Constitution of the United States of America. Petitioner is entitled to redress and relief for judgment as a matter of law.

Respectfully submitted,

Randolph E. Green  
8 Woodbine Street  
Roxbury, MA 02119  
Phone: (617) 445-6488

I, Petitioner Randolph E. Green, swear and claim that the statements made in the Petitioner's Petition are true by the preponderance of the evidence of the record of Case No. A1-429111, Case No. 07-10385, and Case No. 07-2355; including the deprivation of federal constitutional rights, violation of Petitioner's due process rights, and violation of Petitioner's constitutional rights guaranteed by the due process clause of the Fifth, Thirteenth and Fourteenth Amendments to the Constitution of the United States of America – Title 42 USCA Sections 1981, 1983, 1985(3), 1988, 2000-A2 including Title 5 USCA Sections 8107, 8110, 71083 and 7116; Federal Digest Section 32; and Title 29 USCA Section 666, etc. The statements are true to the best of my knowledge.

Signed under the pains and penalties of perjury.

Randolph E. Green

Sworn and subscribed for me on this \_\_\_\_\_ day of January 2009.

Notary Public

My commission expires:

This is to certify that I, Petitioner Randolph E. Green have served all Defendants Respondents with three (3) copies of this petition at the following addresses:

Elaine L. Chao,  
Secretary of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

Carol Adams, District Director  
U.S. Department of Labor  
Office of Workers Compensation Program  
JFK Federal Building,  
Room E-260  
Boston, MA 02203

(in lieu of the Watertown Arsenal which no longer exists)  
Commanding Officer  
U.S. Army Soldiers System Center  
Department of the Army  
Kansas Street  
Natick, MA 02760

Edward Duncan  
Deputy Director

Federal Employees Compensation  
Office of Workers Compensation Program  
U. S. Department of Labor  
Washington, DC

**(now closed)**  
U.S. Public Health Services Hospital  
77 Warren Street  
Brighton MA

Alberto R. Gonzales, Attorney General – Indispensable  
Party  
U.S. Department of Justice – Room 440  
950 Pennsylvania Avenue  
Washington, DC 20053

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Randolph E. Green

Attorney Marcel Kistin  
Six Beacon Street  
Boston, Massachusetts

Re: Randolph E. Green  
8 Woodbine Street  
Roxbury, Massachusetts

Vs.

Watertown Arsenal  
Watertown, Massachusetts

Date of Injury: April 8, 1964                    Age: 44 Years  
Date of this Examination; November 26, 1965

Dear Mr. Kistin:

Mr. Randolph E. Green sustained an injury to his right elbow when he struck the elbow against a steel table at work on April 8, 1964. At that time and thereafter, he experienced electric shocks from the elbow to the hand and wrist and received treatment at the Watertown Arsenal clinic and at the Brighton marine Hospital.

The treatment consisted principally of whirlpool and other forms of physiotherapy. He has been unable to work since February 2, 1965.

At the present time, his complaints are:

Pain in the right arm especially in the region of the elbow with pain radiating to the fingers of the hand

Impairment of motor power in grasping

Sensitivity to cold

Some numbness on the back of the hand

### Examination

Examination reveals that the right major hand is intact. There is a loss of one and one-half inches of abduction of the fingers of the right hand during fanning as compared to the left hand. The right hand exerts a force of zero pounds as compared to 160 pounds for the left hand. There is some dullness of sensation over the back of the hand.

Skin temperatures at this time are as follows:

	Right	Left
Thumb	74.75	74.75
Index	74.75	74.75
Middle	74.75	73.75
Ring	75.50	74.75
Small	<u>77.50</u>	<u>74.50</u>

(Variation greater than 1.00 f. in identical points of opposite hands is significant.)

X-rays reveal some calcification in the soft tissues in the region of the ulnar nerve and a bony exostosis opposite the olecranon process.

### Opinion

Mr. Green sustained a crush injury to the ulnar nerve of the right arm at this time of his injury when he

struck the right elbow on April 8, 1964. Subsequently, he has had symptoms of nerve injury in that he has had partial atrophy of the intrinsic muscles of the hand as evidenced by the impairment of abduction of the fingers during fanning, impairment of motor power, slight numbness on the back of the hand and tenderness in the region of the ulnar nerve and posterior elbow.

Mr. Green has reached an end result from active treatment. He has a loss of function of 20% in the right elbow and 30% in the right hand as a hand. Disfigurement of the hand is slight due to atrophy of muscles.

Sincerely yours,

Stephen W. Meagher, M.D.  
SWM: kem

Stephen W. Meagher, M.D.  
520 Commonwealth Avenue  
Boston, Mass 02215

September 30, 1966

Attorney Marcel S. Kistin  
Six Beacon Street  
Boston, Massachusetts

Re: Randolph E. Green  
8 Woodbine Street  
Roxbury, Mass

vs.

Watertown Arsenal  
Watertown, Massachusetts

Date of Injury: April 8, 1964

Date of this Examination: September 27, 1966

Dear Mr. Kistin:

As you know, Mr. Randolph Green sustained an injury to his right elbow at work on April 8, 1964 when the elbow was struck against a steel table.

Up to the present time, he has continued to experience electric shocks when turning the elbow in certain positions with radiation of the shocks down the arm. He has cramps in the region of the wrist at times and in the fingers with aching especially in the small finger. Sensitivity to cold is also present in the elbow and hand.

1. A feeling of looseness in the elbow
2. Numbness in the small and ring fingers of the right hand
3. Sensitivity to cold
4. Stiffness in the elbow at times
5. Marked impairment in the power of grasping in the right hand
6. Pain in the region of the elecranon Process radiating down to the wrist and fingers
7. Aching in the arm and hand
8. Muscle cramps in the hand when he attempts to use it for any length of time

9. Tenderness over the inner part of the right elbow

Examination

Examination reveals that the right hand exerts a force 40 pounds as compared to 260 pounds for the left minor hand. There is some dullness of sensation over the ulnar nerve aspect of the right hand. All joints appear to move through a normal range of motion. There is tenderness on each side of the olecranon at the right elbow. There is now a loss of three-quarters of one inch of abduction of the fingers during fanning in the right hand as compared to the left hand.

Opinion

Since my last report, there has been no substantial change in the condition of Mr. Green's right hand and arm.

I see no reason to alter my opinion as to his loss of function and disfigurement as previously stated. Following my original examination, I felt that Mr. Green had a loss of function of 20% in the right elbow and 30% in the right hand as a hand. Disfigurement of the hand was slight due to atrophy of muscles.

Sincerely yours,

Stephen W. Meagher, M.D.

SWM:kem

Stephen W. Meagher, M.D.  
520 Commonwealth Avenue

Boston, Mass. 02215

February 14, 1967

Attorney Marcel S. Kistin  
Six Beacon Street  
Boston, Massachusetts

RE: Randolph E. Green  
8 Woodbine Street  
Roxbury, Mass

Vs.

Watertown Arsenal

Date of Injury: April 8, 1964

Date of this Examination: February 3, 1967

Dear Mr. Kistin:

As you know, Mr. Green sustained an injury to his right elbow at work on April 8, 1964 when the elbow was struck against a table. As a result of this injury to the arm and the ulnar nerve, he has the following complaints at this time:

Numbness in the small and ring fingers of the right hand sensitivity to cold stiffness in the elbow at times marked impairment in the power of grasping in the right hand and in the region of the olecranon process radiating down to the wrist and fingers in the arm and hand muscle cramps in the hand when he attempts to

use it for length of time tenderness over the inner part of the right elbow.

#### Examination

Mr. Green has an intact right arm and hand. The right major hand exerts a force of 60 pounds as compared to a force of 330 pounds in the left hand. There is a loss of three-quarters of one inch of fanning of the fingers of the right hand during abduction of the fingers as compared to the normal left hand. There is dullness of sensation over the ulnar nerve distribution of the right hand. Tenderness is present on palpation over both sides of the olecranon and especially over the medial condyle of the elbow.

X-rays, which were previously taken, reveal the presence of calcification in the tissues in the region of the ulnar nerve at the right elbow. In addition, a bony exostosis opposite the olecranon process was also seen.

All of the joints in the extremity move through a normal range of motion. Grossly, there is slight atrophy of the intrinsic muscles of the hand.

#### Opinion

Mr. Green sustained a serious closed type of injury to the ulnar nerve in the region of the right elbow at work on April 8, 1964 which has caused a marked impairment in the power of grasping in the major right hand as well as marked limitation of manipulative ability of the hand for a prolonged period because of the presence of cramping of the intrinsic muscles when he attempts to perform manipulative movements over a period of any duration. The sensory deficit in his hand is permanent since it would have returned to normal before now if it was going to do so; it is now approximately three years

since his injury. The impairment in the loss of fanning of the fingers of the right hand is due to atrophy of the intrinsic muscles, which are responsible for this motion. Tenderness in the elbow has been persistent up to the present time and I believe that this is permanent. Sensitivity to cold is fairly marked during the colder months of the year. The weakness in the hand and the power of grasping and the sensitivity to cold and the feeling of stiffness at times is due to the presence of reflex vasospasm as a result of the injury to the ulnar nerve. This aspect of his problem is permanent.

On the basis of the foregoing findings, it is my opinion that he has the following loss of function.

#### Disability

There is a loss of function of 35% in the right upper extremity as an extrémity. There is slight disfigurement of the hand due to some atrophy. An end result from active treatment has been reached.

Sincerely yours,

Stephen W. Meagher, M.D.  
SWK:kem

Stephen W. Meagher, M.D.  
520 Commonwealth Avenue  
Boston, Mass 02215

August 12, 1974

Mr. Randolph E. green  
8 Woodbine Street

Roxbury, Massachusetts

Re: Randolph E. Green  
8 Woodbine Street  
Roxbury, Mass

vs.

Watertown Arsenal

Date of Injury: April 8, 1964                    Age 53 Years  
Date of this Consultation: August 6, 1974

Dear Mr. Green:

As you know, you came in to see me in my office on August 6, 1974, in relation to the chronic problems that you have had with your right upper extremity since the accident of April 8, 1964. You have copies of my previous reports, most especially, the copy of November 20, 1965, when I first examined you and found that you had evidence of post-traumatic vasospasm as proven by abnormal skin temperatures and calcification in the region of the ulnar nerve at the right elbow at the site of injury by x-ray. In this examination, you stated that you continue to have easy fatigability of the arm with aching in the region of the elbow at the site of injury on the dorsal aspect of the elbow, and the dropping of objects at times with weakness of grasp, discomfort, and dullness of feeling in the right hand and arm.

Examination

Examination reveals that the right major hand and arm are intact. The right hand has a grasp of only 70 pounds compared to 330 pounds in the left minor hand. There is a loss of one inch of fanning of the fingers of the right hand compared to those of the left hand on the basis of intrinsic muscle atrophy. There is diminished sensory acuity in the right hand and arm in response to pin prick up to the level of the elbow, most especially marked in the ulnar nerve distribution. There is a pigmented area that measures one and one-half inches by one inch over the dorsal elbow. There is a full range of motion of the small joints of the hand, wrist, and elbow.

### Opinion

You have definitely reached an end result from active treatment for the injury sustained to your right upper extremity, at work, on April 8, 1964. You will not require further active treatment for this complaint in my opinion. You will permanently be unable to perform the duties that you were doing at the time of the injury. You cannot perform any heavy work or rapid manipulative work with the right upper extremity.

### Disability

There is a loss of function of 20% in the right elbow, and 30% in the right major hand as a hand. There is an overall loss of function of 40% in the right upper extremity as an extremity. Disfigurement of the hand is slight. Disfigurement of the elbow is slight. An end result has been reached.

Sincerely yours,

Stephen W. Meagher, M.D.

SWM:lar

**STATEMENT OF ACCEPTED FACTS IN CASE NO.**

**A1-42911**

**RANDOLPH E. GREEN**

The Bureau accepts as factual that Randolph E. Green, born 11/13/21, sustained a contusion of the right elbow as the result of striking his right elbow against the leg of a table at work n 4/8/64; that he resigned 2/2/65 because disability related to injury of 4/8/64 was being aggravated by working; that from 9/30/65 to 11/19/65 he was a patient at the VA Hospital, Bedford.

Diagnosis: Schizophrenic Reaction, Schizo - Affective Type, manifested by withdrawal, depression, and some paranoid thinking, in partial remission, and that the external precipitating stress was injury of 4/8/64.

T.J. Connelly  
Claims Examiner

TJC:jg  
April 25, 1964

Bureau of Employees: Compensation

In the matter of the claim for compensation under  
the Federal Employees; Compensation Act of

Randolph E. Green

Claimant

Employed by: Department of the  
Watertown Arsenal  
Watertown, Mass

Compensation Order  
Award of Compensation  
Case No: A1-42911

Such investigation in respect to the above-entitled  
claim having been made as is considered necessary, and  
after due consideration of such claim and reports of  
record, the Bureau makes the following:

FINDING OF FACT

That on April 8, 1964 the claimant above-names  
while in the employ of the employing establishment  
above-names sustained personal injury in the  
performance of duty which resulted in permanent partial  
loss of use of right arm

That timely notice of injury and claim for  
compensation were respectively given and filed;

That the monthly pay as determined pursuant to  
Section 12 of the Federal Employees' Compensation Act  
is the equivalent of \$133.00 per week; plus 12.5%

effective October 1, 1966 under Section 13, PL 89-488. That as a result of such injury the claimant has permanent disability equivalent to 20% permanent partial loss of use of right arm

That the claimant is entitled to augmented compensation for dependents;

That for such permanent disability and pursuant to Section 5 of the Federal Employees' compensation Act the claimant is entitled to 62.40 weeks' compensation at the rate of \$100.20 per week for the period November 26, 1965 to September 30, 1966, I usive; and \$112.69 per week for the period to October 1, 1966 to February 5, 1967, fraction of a day, inclusive.

Upon the foregoing findings of fact it is ORDERED that there shall be paid from the Employees' Compensation Fund the following

AWARD

Accrued compensation as follows: The sum of \$6,097.36 covering the period November 26, 1965 to January 12, 1967, inclusive; then the sum of \$383.15 for the period January 13, 1967 to February 5, 1967 fraction of a day, inclusive. Total award \$6480.51.

Given under my hand at Boston, Massachusetts this 18<sup>th</sup> day of January, 1967.

Thomas A. Tinsley, Director  
Bureau of Employees' Compensation  
By: C.L. Hevde

8 Woodbine Street  
Roxbury, Mass.  
February 8, 1967

Marcel L Kistin  
Beacon Street  
Boston, MA

I disagree with the total award in the amount of \$6480.51. I will hold checks due to the fact that there are more fees to be claimed.

Signature: Randolph E. Green

P. Stefan Karuse, M.D.  
2000 Washington Street  
Newton Lower Falls, Mass 02162

A.P. Bloomenthal, M.D.  
5 Bank Street  
Waltham, Massachusetts

RE: RANDOLPH E. GREEN  
8 Woodbine Street  
Roxbury, Mass.

Dear Doctor Bloomenthal:

In answer to your request of May first, I would like to inform you that I saw Mr. Green on February 25, 1970 in psychiatric evaluation. He gave a history of being hospitalized at the Bedford Veterans Administration Hospital in 1965. Patient has a 4<sup>th</sup> grade education.

Patient arrived with a suitcase full of documents referring to his alleged injury and the results of it. In essence, this is all he wanted to discuss. He also stated that he was hospitalized for 2 months, and was on Haldol, 1/2mg., t.i.d. He felt that his condition was induced on purpose by his employer, that they did not give him light work as was indicated but reassigned him to his regular job as an electrical heliarc welder, using an air pressure gun and Dallett gun. He also felt that this company returned him to regular duty to "worsen his condition" and that "they wanted to see me in a condition that would drive me out of my mind". He also brought up the point that this was due to discrimination. He said that his mind was affected to the point where he felt that people were after him and watching him. He said that he felt depressed, had insomnia, and felt like walking through a wall.

My diagnosis of this patient is schizophrenic reaction, paranoid type with depression. My recommendation was that he be hospitalized and given a course of electric shock treatments, which I felt might be beneficial to him,

in view of his depression and the paranoid elements of his psychosis.

I saw Mr. Green at a later date with his wife who works as a psychiatric aide at the Veterans Hospital at Jamaica Plain and who said that she felt qualified to oppose the recommendation of the electric shock treatments.

I have not heard from them since that time.

Sincerely,

P. Stefan Krause, M.D.

Dr. Daniel M. Weiss, Inc.  
Newton-Wellesley Hospital Medical Office Building  
2000 Washington Street  
Newton Lower Falls, Mass. 02162

Telephone (617) 969-8250

July 9, 1979

Paul S. Horovitz, Esq.  
Horovitz, Gordon & Robbins  
Six Beacon Street  
Boston, Mass. 02108

Dear Mr. Horovitz:

Re: Randolph E. Green

This will confirm the fact that I have examined your client in extended interviews. These took place on 24 May 1979, 6 June and 14 June 1979. He is a fifty-seven year old, black, married, protestant male who states that he was in his usual state of good health until he was injured at the Watertown Arsenal on 8 April 1964. He has been almost totally unable to work since that time. He was a welder then and he apparently hit his right elbow somehow on a corner of a steel table and his ulnar nerve was injured. He apparently was paid weekly benefits and was then given a 20% award for loss of function of the right arm on 18, January 1967. However, I am told by him that he refused this, saying that the Board was not made aware of his psychiatric history at the time, nor were they aware of his continuing psychiatric problems.

He was born in Tuskegee, Alabama and there were four brothers and two sisters in all. He was the youngest of this group. Both of his sisters are now dead. His mother died in 1972 at age ninety-one and his father died many years ago. He was in the CCC at age eighteen and then came to Boston in 1942. He joined the 9<sup>th</sup> Cavalry Division during World War II, but never served overseas and was in the Service only for a total of eight months. We are not sure of the manner of his discharge, but he never received a pension for this. He remained in the Boston area as a welder. I am told that he had only four grades of school, but on the other hand it does appear that his intellect is far above a fourth grade level. He has worked for the Federal Government for a total of about twenty years at the time when he was forced to leave work because of the injury and had worked at the

Watertown Arsenal for fifteen years. He gave up his job in February, 1965 having attempted to work after the injury, but having found that he could not stand the light duty that was involved.

He was seen by Jordan Joseph, M.D., a neurologist, who apparently felt that he was of low intellectual quotient of approximately 80 and he found some paranoid thoughts and ideation present in this man.

He was admitted to the Bedford Veterans Administration Hospital in September 1965 and discharged two months later to his LMD.

Dr. Bloomenthal. In his hospitalization it was noted that he had become withdrawn and depressed subsequent to his having left his work and that he had left his work because it was not possible for him to continue and that this was secondary to an injury which he had sustained while at work. He was given phenothiazine medication and a discharge diagnosis was made of schizophrenic reaction, schizo-affective type. However, it does not appear to me that he was not followed up after his discharge by psychiatrists and he has instead continued to see Dr. Bloomenthal from time to time and on occasion was seen again back at the Bedford V.A. Hospital Outpatient Department. He has stated to me that he continues to get medication and I checked with Dr. Bloomenthal about that. It appears that he gets Vitamin B injections, perhaps twice monthly, and Triovil only when necessary.

He was also seen by Dr. Stefan Kraus on 15 May 1970. Dr. Kraus recommended very strongly that he be given the benefit of electro shock treatments and confirmed the diagnosis of schizophrenic reaction. He was also seen by Dr. Charles Pinderhughes who felt that here was a chronic relatively well compensated psychotic condition with paranoid symptoms and he felt that this was a chronic state secondary to the accident itself. This examination was done on 31 July 1970.

He married in 1942 to a woman one year younger than himself and this marriage is still in existence. There are eleven children from this marriage. The oldest is thirty-five and the youngest is now fourteen.

The symptomatology includes the fact that he has become rather reclusive at home, argumentative and continues to be somewhat paranoid. He has not been able to work, but has become very litigious and in fact he has entered suits in his own behalf against various people, including some who have been attempting to help him. He is constantly concerned that people are going to get the better of him and he as a matter of fact tells me that before he finally had to leave work he was deliberately sprayed with acid in the plating shop at the Watertown Arsenal and that this also served to cause him to become disabled. He denies it at this time, but says that formerly he did have delusions and hallucinations and at various times has been treated with Haldol, Stelazine, and other phenothiazine medications. I myself recommended Daxolin to him.

It would appear that this man was injured while at work and that this claim of injury has been documented

elsewhere and that this injury took place on 8 April 1964, some fifteen years ago. It further appears that he had become schizophrenic subsequent to that injury and various examinations by psychiatrists have concluded that the schizophrenic condition was a result of the physical injury, which he had sustained and which has been previously mentioned.

It is fairly well documented also that he continues to be so afflicted and that he continues to be, therefore, unable to work because of his suspiciousness, irritability, and preoccupation with his condition and inability to get along with people.

In my opinion this man suffers from a schizoaffective reaction with paranoid symptomatology in a relatively inactive state at this time.

This is a chronic condition and it is secondary to and casually related to the accident as mentioned above.

The prognosis is very poor.

He should continue, of course, to be under the care of a psychiatrist or an outpatient clinic such as the Bedford V.A. Hospital Clinic, which knows him, rather well.

As you know the American Board of Psychiatry and Neurology certify me as a psychiatrist.

Sincerely yours,

Daniel M. Weiss, M.D.

DMW:MPB

U.S. DEPARTMENT OF LABOR  
OFFICE OF WORKER'S COMPENSATION  
PROGRAMS

In the matter of the claim for compensation under Title 5, US Code 8101 et seq., of

CLAIMANT: Randolph E. Green

EMPLOYED BY: Department of the Army

COMPENSATION ORDER  
REJECTION OF CLAIM  
CASE NO; A1-042911

Such investigation in respect to the above-entitled claim having been made as considered necessary, and after due consideration of such claim and reports of record, the Office makes the following:

FINDINGS OF FACT

That claimant named above was employed by the above named employing establishment; that Notice of Injury and written Claim for Compensation were respectively given and filed; that he sustained a work related injury on April 8, 1964 which was accepted by this Office for contusion right elbow; that claimant did not lose any time from work; that claimant filed a Claim

for Compensation on February 2, 1965 due to the injury of April 8, 1964; that it was accepted by this Office that claimant was suffering from an emotional condition causally related to the accepted injury; of April 8, 1964; that claimant received compensation benefits for temporary total disability from February 2, 1965 through November 22, 1965.

It was determined by this Office that the emotional condition was temporary in nature and that it had ceased by November 22, 1965; that the sole remaining residual disability due to the incident of April 8, 1964 was to the right arm; that claimant received a Schedule Award benefit for a twenty (20) percent loss of function of the right arm for the period November 23, 1965 to February 5, 1967; that medical evidence of record establishes that there has been no increase in the permanent impairment of the right arm subsequent to the issuance of the Schedule Award benefit for twenty (20) percent impairment; that under Section 5 of the Law in effect at the time of the injury no wage loss benefits are payable subsequent to the Award for Permanent Impairment.

Upon the foregoing Findings of Fact it is ORDERED that the claim for compensation benefits be and the same is hereby REJECTED for the following reasons.

Medical evidence of record establishes that there is no causal relationship of the current emotional condition to the accepted injury of April 8, 1964. The accepted emotional condition had ceased by November 22, 1965; (2) there has been no increase in the permanent

impairment of the right arm subsequent to the issuance of the Schedule Award; (3) the right arm was the sole residual disability due to the accepted injury of April 8, 1964 and under Section 5 of the law in effect at the time of the injury no wage benefits are payable subsequent to the award for permanent impairment.

John PapaJohn, Ph.D.  
Consultant Psychologist  
70-7 Kirkland Street  
Cambridge, MA 02138

This is a summary of my evaluation with Mr. Randolph Green who I saw on December 20, 1989.

Mr. Green is a sixty-eight-year-old black man who presents in an articulate and forthright manner. His verbal skills and capacity to state his points well reflects a high level of intelligence. He is in good physical health with the exception of hypertension upon which he has suffered over an extensive period of time.

He is married and the father of eleven children ranging in age from 25 to 42. His wife, age 66, is employed and the main breadwinner in the family since he was disabled in a on the job accident in 1964. Mr. Green worked as a welder at the Watertown Arsenal where he injured his elbow to the extent that he was no longer able to function in that capacity and found himself unemployed. Furthermore, the psychological trauma consequent to his physical incapacitation resulted in severe psychological disorganization, which he termed "a nervous breakdown." The severity of this psychotic illness is reflected in the diagnosis of Schizophrenic

reaction, schizo-affective type, which he received when hospitalized at the Bedford Veterans Administration Hospital between September 30 and November of 1965.

This diagnosis was confirmed over the ensuing years in the many psychiatric contacts he has had and which are documented in various reports which he informs me have been submitted to your office.

His latest psychiatric contact was three months ago when a Doctor Patterson of Lexington, Mass., who renewed his, saw him prescription for Triovil, which he has been taking for the last six years. Whenever he has stopped taking this anti-psychotic medication he becomes anxious and severely depressed, paranoid and suicidal. He gets urges, for example, to put his finger in acid, and to touch the third rail when he is taking the T. He reports being exhausted by the stresses incumbent in having his case for compensation honored by the government.

I have read the psychiatric reports Mr. Green brought with him to the session with me and they consistently validate the original psychotic diagnosis. In the review of his original claim issued on April 25, 1966, the diagnosis of Schizophrenic Reaction, Schizo-Affective Type "manifested by withdrawal, depression and some paranoid thinking" (Case No. A142911 signed by a T.J. Connally) as affirmed.

My impression in interviewing Mr. Green was that the statements he made to me were a truthful representation of the facts. I strongly believe his case merits further reexamination in the light of these facts.

Sincerely,

**John Papajohn, Ph.D.**

**AFFIDAVIT IN SUPPORT OF THE MERITS.**

I, Petitioner, hereby move, verify, certify, declare and swear that the statements contained herein this document are true merits shown by the preponderance of the evidence to the best of my knowledge. Signed under the pains and penalties of perjury on this 16 day of April 2009.



Randolph E. Green  
8 Woodbine Street  
Roxbury, MA 02119

Sworn and subscribed to before me a Notary on this  
20<sup>th</sup> day of April, 2009.

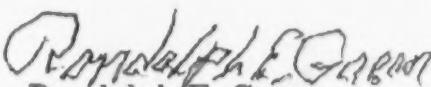


Notary Public

My commission expires:

Samela L. W.  
Notary Public  
My Commission Expires  
October 15, 2009

This is to certify that I, Randolph E. Green, Petitioner have served the Government Respondent three copies of this document motion to the acting Solicitor General Counsel of Record, Edwin S. Kneedler, US Department of Justice - Office of the Solicitor General - Washington, DC 20530 by regular U.S. Mail on this 11 day of April 2009.



Randolph E. Green

In The  
Supreme Court of the United States

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RANDOLPH E. GREEN,

*Petitioner,*

V.

UNITED STATES DEPARTMENT OF LABOR,  
SECRETARY OF LABOR ELAINE CHAO,  
WATERTOWN ARSENAL,  
DEPARTMENT OF THE ARMY,  
U.S. PUBLIC HEALTH SERVICE HOSPITAL,  
CAROL ADAMS, DISTRICT DIRECTOR,  
EDWARD DUNCAN, DEPUTY DIRECTOR,

*Respondent.*

EXHIBITS IN SUPPORT OF PETITION FOR  
REHEARING FOR WRIT OF CERTIORARI FOR  
EXTRAORDINARY CIRCUMSTANCES  
PURSUANT TO RULE 44 -1 - 2 AND 3 OF THE  
SUPREME COURT OF THE UNITED STATES

---

Randolph E. Green  
8 Woodbine Street  
Roxbury, MA 02119  
Phone: (617) 445-6488

**MERITS PRESENTED IN EVIDENCE OF  
VIOLATION OF CONSTITUTIONAL CRITERIA  
ESTABLISHED ACTS OF CONGRESS**

**Title 5 USCA Section 8107 Act  
Title 5 USCA Section 8110 Act  
Title 42 USCA Section 1981 Act  
Title 42 USCA Section 1983 Act  
Title 42 USCA Section 1985(3) Act  
Title 42 USCA Section 1988 Act  
Title 42 USCA Section 2000a2 Act**

**Fifth Amendment to the  
United States Constitution**

**Thirteenth Amendment to the  
United States Constitution**

**Fourteenth Amendment to the  
United States Constitution**

**Title 5 USCA Section 7103 Act and 7116 Act  
Federal Digest Section 32 Act  
Title 29 USCA Section 666 Act**

**2 Merit Presented**

Pursuant to Title 5 USCA Section 8107, the Secretary of Labor Etal. have deprived and have violated petition right to paid compensation schedule for petitioner's April 8, 1964 injury in case No. A1-42911.

---

### **3 Merit Presented**

Pursuant to Title 5 USCA Section 8110, the Secretary of Labor has violated and has deprived petitioner and petitioner's wife Melba L. Green and petitioner's 8 dependent children from receiving augmented compensation pursuant to the FECA, program in Case No. A1-42911.

### **4 Merit Presented**

Pursuant to Title 42 USCA Section 1981, the Secretary of Labor has deprived petitioner of the established criteria of the Equal Rights under the law to a fair and an impartial hearing, a judicial or administrative hearing, conducted in accordance with due process in Case No. A1-42911.

### **5 Merit Presented**

Pursuant to Title 42 USCA Section 1983, the Secretary of Labor has constituted deprivation of petitioner's civil rights against petitioner on January 18, 1967. For terminating petitioner's compensation benefits pay from the office of workers compensation program, before and without affording petitioner a fair and an impartial hearing, a judicial or administrative hearing, conducted in accordance with due process in Case No. A1-42911.

### **6 Merit Presented**

Pursuant to Title 42 USCA Section 1985 (2) and (3) the Secretary of Labor Etal have constituted conspiracy

against petitioner involving Case No. A1-42911, and constituted obstruction of justice for the purpose of depriving and violation of petitioner's due process right to a fair and impartial hearing, a judicial or administrative hearing, conducted in accordance with due process.

#### 7 Merit Presented

Wherefore pursuant to Title 42 USCA Section 1988, the Secretary of Labor has interfered and has deprived petitioner of the proceeding in vindication of petitioner's civil rights in violation of petitioner's due process right to a fair and an impartial hearing, a judicial or administrative hearing conducted in accordance with due process in Case No. A1-42911.

#### 8 Merit Presented

Where as in pursuant to Title 42 USCA Section 2000 A1, the Secretary of Labor Etal have interfered with petitioner's civil rights by withholding petitioner from exercising petitioner's right privilege secured by Section 2000A or 2000A1 including racial discrimination in violation of Title 42 USCA Section 2000A2 against petitioner's due process rights to a fair and an impartial hearing, a judicial or administrative hearing, conducted in accordance with due process in Case No. A1-42911.

#### 9 Merit Presented

Pursuant to the established constitutional criteria of the Fifth Amendment to the Constitution of the United States, the Secretary of Labor Etal have violated petitioner's due process clause right, to a fair and an

impartial hearing, conducted in accordance with due process in Case No. A1-42911.

10 Merit Presented

Pursuant to the established criteria of the Thirteenth Amendment of the Constitution of the United States, the Secretary of Labor Etal have as a result of the use of wrongful conduct in violation of petitioner's Thirteenth Amendment right, by using involuntary servitude slavery against petitioner's civil rights and due process rights and constitutional rights, guaranteed to the petitioner by the Fifth, Thirteenth, and Fourteenth Amendments to the Constitution of the United States was violated on January 18, 1967 in Case No. A1-42911.

11 Merit Presented

Pursuant to the Fourteenth Amendment of the Constitution, the Secretary of Labor Etal have abridged, deprived petitioner of petitioner's right to due process of law guaranteed by the Fifth, Thirteenth and Fourteenth Amendments of the Constitution of the United States in violation of petitioner's constitutional rights, guaranteed by the due process clause of the Fifth, Thirteenth and Fourteenth Amendments to the Constitution of the United States, Title 42 USCA Sections 1981, 1982, 1983, 1985(2) and (3), 19833, and 2000 A2 and Title 5 USCA 8107 and 8110 of Title 5 in Case No. A1-42911.

12 Merit Presented

Pursuant to Title 5 USCA Sections 7103 act and 7116 act the employer Watertown Arsenal and supervisor

has constituted the use of unfair labor practice against petitioner's health and welfare in violation of petitioner's right to be offered light duty working condition for physical and health safety condition where the use of unfair labor practice has constituted infliction of emotional stress against petitioner.

#### 13 Merit Presented

Pursuant to Federal Digest 32, the Secretary of Labor Etal have constituted deception constituting fraud against petitioner to defraud and deprive and withhold petitioner from collecting punitive damages, pain and suffering damages, infliction of emotional stress damages and monetary damages for petitioner's April 8, 1964 injury at work in line of duty in Case No. A1-42911.

#### 14 Merit Presented

Pursuant to Title 29 USCA Section 666 Act, the employer the Watertown Arsenal official employers have deprived and have violated petitioner's right to job safety or physical and health safety condition at work involving petitioner's personal injury of April 8, 1964.

#### 15 Merit Presented

Pursuant to Judge Rya Zobel's malicious conduct of the order of dismissal of plaintiff's complaint in its entirety with prejudice has constituted conflict against the Fifth, Thirteenth and Fourteenth Amendments due process right to the Constitution of the United States, in violation of petitioner's civil rights and violation of petitioner's constitutional right guaranteed by the Fifth, Thirteenth and Fourteenth Amendments to the

Constitution of the United States, 42 USCA Section 1983, 1985 (2) and (3) and 2000A2 of Title 42 in Case No. 07-10385.

16 Merit Presented

Pursuant to Judge Rya Zobel's order of dismissal of petitioner's complaint in its entirety with prejudices on July 30, 2007 before and without issuance of summons has constituted conduct of interfering with petitioner's civil rights due process right and constitutional rights in violation of Rule 4 and Rule 7 of the Federal Rules of Civil Procedure of United States Code Annotated Rules of Law violated against petitioner's due process right in Case No. 07-10385.

17 Merit Presented

Pursuant to the First Circuit Court of Appeal's 3 judges order of agreeing with judge order of dismissal of July 30, 2007, March 19, 2008 has constituted first circuit unlawful, misconduct, and interfering with petitioner's proceeding in vindication of petitioner's civil rights including racial discrimination and deprivation of federal constitutional rights in violation of United States Code Annotated Title 5 USCA Sections 8107, 8110 and United States Code Annotated Title 42 USCA Sections 1981, 1983, 1985 (2) and (3), 1988 and 2000A2 of Title 42 in Case No. 07-10385.

18 Merit Presented

Wherefore the First Circuit Court of Appeal 5 judges' ruling against petitioner on June 20, 2008 has violated petitioner's due process right and petitioner's civil rights and petitioner's constitutional rights of failure

and refusal to afford petitioner prior service of process and affair and an impartial hearing, a judicial or administrative hearing, conducted in accordance with due process. Wherefore, the conduct used by the district court and the First Circuit Court has violated petitioner's constitutional rights to be heard in a hearing to be recorded for the record guaranteed by the Fifth Amendment to the Constitution of the United States.

See Amendment XIV 14<sup>th</sup> (1868)

19 Merit Presented

Section 1. All persons bourn or naturalized in the United States and subject to the jurisdiction thereof are citizens of the United States and the state wherein they reside no state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States. Nor shall any state deprive any person of life, liberty, or property, without due process of law, nor deny to any person within the jurisdiction the equal protection of the laws.

See Constitutional Law Key 2566

20 Merit Presented

Constitutional Law Key 2566, the fundamental requirement of due process is the opportunity to be heard at a meaningful time and in a meaningful manner USCA Constitution Amendment 5. By means which Plaintiff Appellant has been deprived of his rights to due process of law, for the April 8, 1964 traumatic right elbow injury, which resulted in a

nervous breakdown, which has continued through the present in this case.

See Article VI  
21 Merit Presented

Article VI of the Constitution makes the Constitution the "Supreme law of the land" in 1803 Chief Justice Marshall, speaking as a unanimous court referring to the Constitution as the fundamental and paramount law of the nation, declared in the notable case of Marburg V. Madison, that it is emphatically the province and duty of the judicial department to say what the law is.

22 Merit Presented

I, Petitioner Randolph E. Green, have a legal right to be heard in a hearing, and constitutional rights to be heard in a hearing and a due process right to be heard in a hearing and civil rights to be heard in a hearing in a court of law as a citizen of the United States.

Merits Presented  
**LIST OF PARTIES**

A list of all parties to the proceeding in this Court whose judgment is the subject of this petition for redress and relief as follows:

All parties appear in the caption of the case on the cover page.

The disclosure statement.

Randolph E. Green, Petitioner

United States Department of Labor

Secretary of Labor Elaine Chao

Watertown Arsenal

Department of the Army

United States Public Health Services Hospital

Carol Adams District Director

Edward Duncan Deputy Director

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Merits Presented  
**TABLE OF AUTHORITIES**

Cases in support of Petitioner's Merit

Soto Flores, 103.F 3d 1056.1061 (1 ct cir 1971)

Baker v. Carr 369 UA 198, 92, S, Ct. 691 Ed.23d 663 (1962) This civil action was brought under 42 USCA Section 1983 and 1988.

Cooper v. Aaron v 348.US 1.8 Sct.1401.L.Ed 2d 5 (1958)

Smith v. Wade 461.UA.30.50-51 (1983)

Clark v. Taylor 710 F 2d4. 16(C 1<sup>st</sup> cir.1983) Niga Supr.355.

Griffin v. Brackenridge 403 U 88 102 (1971)

Doe v. Board of Education of Honenegah Community High School District No. 2707, ND 111, 2993.833F. Supp. 1366.

Wilson v. Rackmill, 878 F. 2d 772 774 3 cir (1989).

Tyler v. Carter, 151 F.R.D. 537.5540 (S.D. N.Y. 1983)

As held in the 1993 Unites States Supreme Court Denton v. Hernandez 504 U.S. 25.112 S Ct. 1728.

Crew v. Petrosky D.C. PA 1981, 509 F. Supp 1199 Deception constituting fraud and liability thereof.

US ILL.7875 Nidd v. Burrows, 91 US 42.231 Ed 286

U.S. N.H. 1951 Fraud Lord v Goddard, 45 US 198, 73 How, 198.14 L Ed. 111.

App. D.C. 1904 Tyner v. US, 23 App D.C.324.

C.C.A. Colo. 1925 Greeley National Bank v. Wolf 4F.IB.67.

C.C.A. NY Topping v. Trade Bank of New York, 96 F 2d 116.

D.C. 111, 1933 Fraud is deception brought about by misrepresentation of fact. RE: Bowman Hardware & Electric Co. F. Supp. 82 reversed C.C.A. 67 F.2d 792.

Punitive damages are recoverable in sec. 1983 suit where defendants etal's conduct is unlawful and unconstitutional, depriving plaintiff appellant of his federally protected rights (see Smith V. Wade. 461 U.S. 30.50-51 (1983); Clark V. Taylor.710F.2d4. 14 (1<sup>st</sup> cir 1983) miga.supra.at.355.

Protected rights or privileges see Griffin V. Breckenridge 403 U.S. 88 102 (1071) I, Plaintiff Appellant Randolph E. Green, am the rightful living victim and witness who can give firsthand account, information who experienced on April 8, 1964 a traumatic right elbow injury at the Watertown Arsenal place of employment in the line of duty, which resulted in a nervous breakdown on September 30, 1964, which has continued through the present in this case.

Government officials' interference with Plaintiff Appellant's constitutional right of access to courts can give rise to cause of action under federal rights statute.

Doe V. Board of Education of Honenegah Community High School District No. 207, N.D. ILL.2993, 833 F. Supp. 1366. The right of access to the courts is protected by the due process clause of USCA Const. Amend. 14 and is also part of the right to petition protected by USCA Const. Amend.1. Crew V. Petrosky, D.C. pa1981, 509 F. Supp 1199.

Merits Presented  
**THE ESTABLISHED CRITERIA OF MEDICAL  
REPORTS FROM THE U.S. PUBLIC  
HEALTH SERVICE HOSPITAL**

7/1/1964: Patient alleges he struck his right elbow on a hard surface on 4-9-1964 and had a "shooting pain" down the arm (felt like struck the funny bone) – since that time, he has had recurrent pain about the elbow but not always in the same site. No true weakness but general aching about the elbow at night usually. No numbness but occasionally "shooting pain".

Physical examination: Made by the U.S. Public Health Service Hospital Doctor recommendation of whirlpool treatments against Petitioner's right traumatic ulna neuritis has constituted unlawful conduct of medical malpractice of infliction of emotional stress.

Impression: Castalia, right elbow and forearm treatments with whirlpool vibration water pressure has caused. I, Petitioner Randolph E. Green, extended

damages to right traumatic ulna neuritis damage as the air pressure pallet gun.

Disposition: FIT FOR LIGHT DUTY. Whirlpool. Return to clinic in two weeks to the U.S. Public Health Service Hospital.

Doctors Visits

07/01/64  
07/02/64  
07/07/64  
07/08/64  
07/09/64  
07/13/64  
07/14/64  
07/15/64  
07/23/64  
07/30/64  
08/07/64  
08/12/64  
08/20/64  
08/31/64  
09/01/64  
09/22/64  
09/28/64  
10/21/64  
11/02/64  
11/03/64  
11/06/64  
11/09/64  
11/12/64  
11/19/64  
12/03/64

12/16/64  
**CLINICAL RECORD**  
**CONSULTATION SHEET**

To: United States Public Health /service Hospital,  
Brighton

From: Watertown Arsenal, Watertown MA 6 Nov, 1964

**Reason for request (Complaints and Findings)**

Green, Randolph E., 17706 contusions - right elbow - 8 April 1964. This man still complains of being unable to do regular duty. In my judgment he should be on regular duty, however, I am sending him to your for advice and re-evaluation.

11/6/64 - Surgical Clinic: Patient still complains of pain in right elbow. Since last visit patient has been seen by family physician, orthopedist, and neurologist. Now referred for re-evaluation.

Examination reveals no abnormalities. Full range of motion, right elbow with no deformity. No muscle atrophy of arm, forearm or hand. Impression: Deferred. No objective evidence of disease at this time. Disposition: X-ray of right elbow, fit for light duty, return to orthopedic consultant on 11/12/64.

On 11/12/64 was rescheduled for consult and again fit for light duty, for visit on 11/19/64. On 11/19/64 patient again rescheduled for 12/3/64 and was on light duty.

12/3/64 - Dr. Ulin's consultation: History taken by Dr. Ulin as above. In addition patient states vibration, nervousness, defecation also causes the pain in the arm. Examination is entirely negative. Patient has total hypoesthesia of the arm. No orthopedic pathology. Fit for full duty.

Patient returned to Orthopedic Clinic on 12/16/74 and was still having some symptoms. Questioning reveals that this patient is required in his usual job to work with a vibrating hammer xx machine. Fit for light duty - no vibrating hammer (Pallet Gun) under any circumstances. No lifting over 20 lbs. No vibrating machine of any kind. Return to clinic on 1/13/65.

Clinical Record

Consultation

TL Dr. Ulin

From: Surgical Service

Date of request: 12/3/64

This man complains of pain in the right arm and mild discomfort from the elbow distally. He complains of an occasional "dead feeling". The pain is said to be related activity but although he says that it does interfere in some way with his work, it is not a severe complaint. He has been seen by many examiners previously and no diagnosis of orthopedic pathology has been made.

Physical Examination of the known objective damage to Petitioner's right traumatic ulna neuritis nerve damage was never diagnosed by not one doctor of all the appointment visits to the U.S. Public Health Service Hospital of approximately 26 appointment or more.

I find no demonstrable orthopedic pathology in this patient. This report comes from the U.S. Public Health Service Hospital doctors.

Sept. 27, 1966

Mr. Marcel Kistin  
6 Beacon Street  
Boston, Mass.

Re: Randolph Green Merits Presented

Dear Sir:

Following is a medical report of above named patient, injured in the performance of his duties on April 8, 1964.

Diagnosis: Right traumatic ulna neuritis.

Therapy: Physic-therapy, Analgesics for pain, Immobilization.

Disability

Office Visits: April 8, 1964

First Aid \$15.00

April 15, 21, 28

May 5, 12, 22, 26

June 5, 9, 16, 30

July 7, 14, 17, 24

Aug, 4, 7, 11, 15, 22, 30 \$105.00

Total \$8120.00

Very truly yours,

A. P. Bloomenthal M.D.

Feb. 3, 1967

Mr. Marcel Kistin

6 Beacon Street

Boston, Mass.

Re: Randolph Green

Dear Sir:

Following is a medical report of above named patient, injured in the performance of his duties on April 8, 1964.

Diagnosis: Right traumatic ulna neuritis.

Emotional Trauma Aggravated by injury to right ulna.

Therapy: Analgesics for pain, Physic-therapy, Immobilization, Valium 5mg. Entered V.A. Hospital 9/30-11/19/65

Disability Total 4/8/64-3/9/66

Partial Continuing

	Office Visits: April 8, 1964 First Aid	\$15.00
1964	April 15, 21, 28	
	May 5, 12, 22, 26	
	June 5, 9, 16, 30	
	Aug. 4, 7, 11, 15, 22, 30	
	Sept. 6, 20,	
	Oct. 4, 19,	
	Nov. 2, 16	
	Dec. 11, 22,	
1965	Jan. 12, 26	
	Feb. 2, 16,	
	Mar. 7, 1,	
	Apr. 17, 28,	
	May. 9, 19,	
	June 12, 22,	
	July 10, 21	
	Aug. 8, 22,	
	Sept. 6, 19, 26	
		\$240.00
	-----	\$255.00

Very truly yours,

A. P. Bloomenthal M.D.

A.P. Bloomenthal, M.D.  
5 Banks Street  
Waltham, MA 02154

Nov 6, 1969

Mr. Randolph Green has been under my care since Feb. 2, 1965 for Anxiety and Depression. He was

admitted to the V.A. Hospital on 9/30/65 and discharged on 11/19/65.

Previous to that time he was under treatment for right traumatic ulna neuritis aggravated by an injury to the right Ulna.

He was released from treatment at the V.A. Hospital on Mar. 9, 1966 to my care, and up to the present time he is under continuing therapy.

For any further information, feel free to call my office.

Very Truly yours,

A.P. Bloomenthal, MD.

Donald I. Campbell, M.D.  
Edwin W. Guiney, M.D.  
66 South Street  
Waltham, Mass. 02154  
Telephone 894-2096

December 21, 1964

To Whom It May Concern:

Re: Randolph Green

I saw Mr. Green for the second time on December 10, 1964, with no real change in his symptomatology. He is still having a cosalgic type of pain beginning in his right elbow, radiating into the wrist, hand, and fingers. This pain is aggravated by heavy repetitive work otherwise he finds that he is able to do his regular job quite satisfactorily.

His main complaint was that his pain was aggravated by using some sort of a riveting or cir-type of gun, which caused a jarring of his hand, wrist, and forearm. This seemed to aggravate his pain. I would think that if this type of work could be avoided, he should be continued in his regular job as we know that the symptoms that this man has, generally improve with time, though it may take many months.

If I can be of any further assistance in this matter, please let me know.

Respectfully yours,

Edwin W. Guiney, M.D.

Donald I. Campbell, M.D.  
Edwin W. Guiney, M.D.  
66 South Street  
Waltham, Mass. 02154  
894-2096

A.P. Bloomenthal, M.D.

Re: Randolph Green  
5 Banks Street

Employer: Watertown Arsenal  
Waltham, Massachusetts  
Age: 42 B.D. 11/13/21

Dear Doctor Bloomenthal:

I saw the above named patient in the Emergency Room of the Waltham Hospital today, with a history of having struck his right elbow on a metal corner while at work on April 8, 1964. Immediately following the injury, he had considerable pain and swelling throughout the whole of his elbow joint. He was treated with warm soaks at work. The immediate pain around the elbow gradually seemed to subside but he began to develop increasing pain with activity particularly with squeezing his fist, resting on his elbow or trying to reach above his head and turn anything. The pain has become progressively worse around the elbow, down the forearm with a sensation of numbness and weakness in the hand. He feels that this may have started on the ulnar side of his hand and has no spread toward the thumb, second and third finger. He also notes cramping in the forearm wrist and fingers when the hand is at rest. He had been treated at the Brighton Marine with physiotherapy with no improvement in his symptomatology.

On physical examination there is no atrophy of this arm. He has a full range of elbow motion, a full range of wrist motion, though his fingers do not seem to extend quite as far on this side as they do on the other, however, this is his right hand. He has full pronation, full supination. He has vague sensory loss through out the whole hand, forearm, and distal upper arm, which follows no neurological pattern. He has no real motor

weakness, though the right hand in grasp seems to be just slightly weaker than the left, even though he is right-handed. His reflexes are normal. Blood pressure in both arms is the same; pulses seem to be the same.

**IMPRESSION:**

I feel that this man is developing a cosalgia of his right arm and that there is no orthopedic problem present at this time. His x-rays were reviewed and they were also found to be negative. Therefore, I feel that he should be seen by a neurologist.

Jordan Joseph, M.D.  
Neurology  
21 Prospect St.  
Waltham, MA 02154

August 24, 1964

A.P. Bloomenthal, M.D.  
5 Banks Street  
Waltham, Massachusetts

RE: Randolph E. Green  
8 Woodbine Street  
Roxbury, Mass

Dear Dr. Bloomenthal:

I saw your patient, Randolph Green, in the office for the first time on August 21, 1964. He is a 42 year old Negro male who complains of pain in his right arm following an injury to the elbow on April 8, 1964. On that date while at work at the Watertown Arsenal, he

traumatized his elbow against a metal object. Following the trauma he had pain issuing from the elbow, down the inner aspect of his arm and into the fourth and fifth fingers. Since that time the pain has waxed and waned to a certain extent, tends to appear at any time, occasionally awakens the patient from sleep, and it is of an extremely intense, deep, and aching nature. It is also notable that although the pain may occur at any time, active use of the arm tends to exacerbate the pain. The pain, which initially involved the inter aspect of the arm, seems now on occasion to involve the entire forearm. He was seen by Dr. Guiney who reviewed his x-rays and found no orthopedic problem present.

On examination no neurological difficulties were noted except those related to his right arm. It is noted that the right ulnar nerve is quite tender to palpations and one can easily induce the type of pain of which he complains. When similar manipulation of the left ulnar nerve is performed paresthesias appear but are not of the intensity of those seen on the right. Reflexes in the right arm, biceps, triceps, and brachialradialis, appear within normal limits. It is difficult to determine sensory loss to pin prick, but that a distinct loss to pin prick over the ulnar side of the right hand was obtained. This has to be rechecked. Distinct wasting of small musculature of hand or weakness was not noted on this occasion, but he is reluctant to use the right hand. The left hand seems slightly more moist than the right, but this observation needs to be rechecked and the patient himself shall observe difference in degrees of sweating. It is notable that there is no hypersensitivity of the right hand or arm to touch.

Impression: Right ulnar neuritis related to trauma.

Recommendation: I would consider conservative therapy most important at this time. I suggested to Mr. Green that he maintain his right arm in a splint for a week or two, and that we observe the results of this treatment. He is also to passively exercise his right hand and arm to prevent stiffening three times a day and to soak it two to tree times a day in warm water. I also suggested that he take aspirin for pain. I plan to see Mr. Green again in two weeks.

Thank you for referring Mr. Green.

Sincerely yours,

Jordan Joseph, M.D.

JJ:nb

Jordan Joseph, M.D.  
Neurology  
21 Prospect St.  
Waltham, MA  
Tel. RE4-7840

September 25, 1964

Re: Randolph Green

Dispensary

Watertown Arsenal

Watertown, Massachusetts

Dear Sir:

I saw Mr. Green on August 21, 1964 and on September 3, 1964 in relation to an injury received at the Watertown Arsenal. At the request of Mr. Green, I am sending you my opinion. I found Mr. Green to have an ulnar neuritis on the right related to trauma to the ulnar nerve at the elbow. Since continued activity of right arm seems to aggravate his symptoms, I suggested that the activity he partakes in be diminished. I believe that the prognosis in this situation is good, but there are suggestions of causalgic type pain, and also the possibility of the development of a tardy paralysis.

Mr. Green seems to be a fairly solid man and I suspect the pain of which he is complaining is quite genuine. I believe he should be watched further until abatement of symptoms is quite distinct. The possibility of a neurolysis should be kept in mind should his symptoms worsen. As his symptoms decrease a program of gradually increasing activity of the right arm should be undertaken. I have currently advised sufficient activity of the right arm to avoid any disuse complications.

If you desire any further information from me, I shall be only too happy to forward it to you.

Sincerely yours,

Jordan Joseph, M.D.  
JJ:RSB

Jordan Joseph, M.D.

Neurology  
21 Prospect St.  
Waltham, Mass.  
Tel. Re4-7840

A.P. Bloomenthal, M.D.  
5 Banks St.  
Waltham, Mass.

Dear Dr. Bloomenthal,

I again saw your patient, Randolph Green, on September 3, 1964. He states that since keeping his arm in a sling, minimal improvement has occurred. Findings today are similar to those of August 24, in that a diffuse diminution to pin prick is present over the right forearm and hand. Today it seems as if the right hand is sweating more than the left.

No diminution in strength is noted. The only disturbing new feature is that the patient now recollects that, superficial stimuli occasionally evoke a severely painful response and, on one occasion in the past two weeks this was noted. The implication of this is that a causalgic syndrome might be developing and on this basis I shall continue to stay in contact with the patient.

He has other complaints, such as cramps in his feet, which I do not believe, are of significance. I have drawn a blood Wasserman on the patient.

Impression: Right ulna neuritis, possibly slightly improving.

Recommendation: To continue with passive exercises and sling, if this continues to prove helpful. I am planning to see him again in about one month.

Sincerely yours,

Jordan Joseph, M.D

Jordan Joseph, M.D.  
Neurology  
21 Prospect St.  
Waltham, MA.  
Tel. Re4-7840.

October 6, 1964  
Re: Randolph Green

A.P. Bloomenthal, M.D.  
5 Bank Street  
Waltham, Massachusetts

Dear Dr. Bloomenthal,

I again saw Randolph Green on Friday, October 2, 1964. Since last seen, Mr. Green has noted continuous improvement in the function of his right hand and has been noting less and less pain. Examination today: There is slight diminution to pin prick on the ulna side of the right hand and no evidence of atrophy is noted. Previously noted suggestions of causalgic pain have not recurred.

Impression: Right traumatic ulna neuritis improving.

Recommendations: I suggested to Mr. Green that he gradually increase the use of his right arm as the pain subsides, but should not use his right arm to the degree that recurrent pain is noted. I suggested to Mr. Green that he let me know in the future should his symptoms become worse and that I would like to see him in any case again in three or four months to be certain at that time no evidence of ulna nerve damage is present.

Thank you for referring Mr. Green.

Sincerely yours,

Jordan Joseph, M.D.

Jordan Joseph, M.D.  
Neurology  
21 Prospect St.  
Waltham, Mass.  
Tel. RE4-7840

March 24, 1965

Re: Randolph Green  
8 Woodbine Street  
Roxbury, MA. 02119

A.P. Bloomenthal, M.D.  
5 Bank Street  
Waltham, Massachusetts

Dear Dr. Bloomenthal,

I saw Mr. Randolph Green in the office on March 18 and on March 23, 1965, for further evaluation. Apparently Mr. Green resigned his job at the Arsenal on February 2, 1965. He apparently resigned because he felt hat he was being mistreated there. He feels that they made him use his right arm more than necessary; he feels that on occasion acid was spilled on him, not accidentally, and he feels that they used various techniques to purposely aggravate him. How much is true in his thinking about this matter, and how much is related to his paranoid feeling about the Arsenal is difficult to be certain of.

When his wife came to the office on March 23, 1965, she feels that there has been no significant personality change, except during the past month or so he has possibly been a little more depressed than usual. She does not note any distinct memory changes in his behavior.

On looking into his mental situation a bit, he is found to have a vocabulary score compatible with an I.Q. of around 75. The Wechsler Memory Scale reveals a memory quotient consistent with an I.Q. of approximately 80. The only disturbing feature noted is a rather sever difficulty with drawings. On the Benton Visual retention Test he again reveals approximately 80. It is also to be noted that he has had a fourth grade education in the South and he was discharged from the Army after 8 months service for unknown reasons. On physical examination today there is slight tenderness over the ulnar nerve at the elbow on the right, but no other significant findings.

Impression: This is a very simple man who, on mental testing, reveals signs slightly suggestive of a cerebral degenerative process. His basic intelligence, however, is so low that it is impossible to be in any way certain of this. Psychologically he is somewhat paranoid about the Arsenal, but not too psychotic proportions.

Recommendations: I suggested to this man that the healthiest thing he could do is find a way to keep himself busy by working. I have not written the Veterans Bureau about him, as he feels that he would prefer that you handle this situation.

If I can be of any further service to you in this regard, do not hesitate to let me know.

Sincerely yours,

Jordan Joseph, M.D.

Jj/rsb

#### NARRATIVE SUMMARY

DIAGNOSIS: Schizophrenic Reaction, Schizoaffective Type, manifested by withdrawal, depression, and some paranoid thinking, in partial remission.

EXTERNAL PRECIPITATION STRESS: Injury at work.

PREDISPOSITION: Undetermined.

DEGREE OF INCAPACITY: Modesto.

**COMPETENCY: COMPETENT.**

H. Markey, M.D.  
Ward Physician

Stephen W. Meagher, M.D.  
520 Commonwealth Avenue  
Boston, Mass. 02215

**STATEMENT OF THE BASIS FOR  
JURISDICTION**

Pursuant to the Supreme Court jurisdiction of Title 28 USCA Section 1254 (1) that empowers the Supreme Court to entertain the certiorari wherefore in this proceeding in this court in which the constitutionality of an act of Congress is drawn into question.

The constitutional criteria of the 1964 Federal Civil Rights Act has been established for the Negro, Black, Woman and Man of Color pursuant to the United States Code Annotated Title 42 USCA Sections, 1981, 1982, 1983, 1988, and 2000A2. Wherefore Petitioner, who is a Negro, Black, Man of Color, and family members reside, has been discriminated with gross injustice and hardship against Petitioner and Petitioner's wife and eight (8) dependent children.

Wherefore the First Circuit Court Judges' own misconduct actions taken against Petitioner by the judgment entered on March 19, 2008; before and without affording Petitioner a fair and impartial

hearing, a judicial or administrative hearing conducted in accordance with due process. Wherefore the order of judgment is null and void.

The First Circuit Court of Appeals Judges' own malicious conduct of denying Petitioner for rehearing en banc filed by Appellant, Randolph E. Green 07-2355 appeal dismissed on June 20, 2008 before and without affording Petitioner a fair and an impartial hearing, a judicial or administrative hearing conducted in accordance with due process. The order of dismissal of the appeal on June 20, 2008, is null and void on the grounds that the order of judgment and the order of dismissal do not comply with constitutional criteria of due process that has been established by Amendment V (1791).

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## **STATEMENT OF THE CASE INVOLVING MEDICAL TREATMENT**

1. I, Randolph E. Green, was an employee of the Watertown Arsenal, a Department of the Army, as the number one all round welder. On April 8, 1964 I injured my right elbow in the line of duty at work and as a result of my injury I suffered right traumatic ulna neuritis emotional trauma aggravated by injury to right ulna diagnosed by Dr. A. B. Bloomenthal, M.D. on or about April 15, 1964.

2. On or about July 1, 1964, I, Randolph E. Green was treated at the US Public Health Service Hospital with whirlpool physio-therapy of 28 times. The 28 whirlpool treatments constituted access of punitive infliction of emotional distress damages against my health and welfare treatments at the hospital.
3. On or about November 2, 1964, November 19, 1964, December 3, 1964, and December 16, 1964 orthopedic surgery Dr. Ulin, MD. Fit for light duty - no vibrating hammer pallet gun under any circumstances, no lifting over 20 pounds, no vibrating machines of any kind and return to clinic on January 13, 1965.
4. I, Randolph E. Green, saw Dr. A. P. Bloomenthal for my injury in performance of my duties on April 8, 1964 first aid. Diagnosis right traumatic ulna neuritis therapy, physio-therapy analysis for pain immobilization, disability, and office visits April 8, 1964 first aid \$15.00. I was treated from on or about April 8, 1964 by Dr. A. P. Bloomenthal for about 30 treatments on 1964 and about 18 treatments in 1965 diagnosis - right traumatic ulna neuritis, emotional trauma aggravated by injury to right ulna. Valium 5 mg, entered VA Hospital on September 30, 1965 and was released from VA Hospital on or about November 22, 1965; released from VA Hospital treatments on or about March 9, 1965 under continuing therapy by Dr. Bloomenthal.

5. On or about August 14, 1964 and December 20, 1964, I, Randolph E. Green, saw Dr. Edwin W. Guiney - Orthopedic MD. He is still having cosalgia, type of pain was aggravated by heavy repetitive work; otherwise he finds that he is able to do his regular job quite satisfactorily. His main complaint was that his pain was aggravated by using some sort of a riveting air type gun which caused a jarring of his hand, wrist, and forearm. This seemed to aggravate his pain.
6. On August 21, 1964, September 3, 1964, October 2, 1964, March 23, 1965, I, Randolph E. Green saw Dr. Jordan Joseph - Neurology MD, placed my arm in a sling. Impression: right ulna neuritis related to trauma on March 18, and an on March 23, 1965 for further evaluation. Apparently Mr. Green resigned his job at the Arsenal on February 2, 1965 because he felt that he was being mistreated.

He feels that they made him use his right arm more than necessary, he feels that on occasion acid was spilled on him, not accidentally, and he feels that they used various techniques to purposely aggravate him.

7. On September 30, 1965, I, Randolph E. Green was admitted to the VA Hospital for about two months - diagnosis schizophrenic reaction, schizo-affective type, manifested by withdrawal depression, and some paranoid I was in the VA

Hospital from September 30, 1965 through November 22, 1965.

External precipitating stress injured at work predisposition: undetermined prognosis of incapacity moderate.

Signed by H. Markey  
Ward Physician

SWM:lar

Statement of accepted facts in Case No. A1-42911  
Randolph E. Green

The Bureau accepts as factual that Randolph E. Green born November 13, 1921 sustained a contusion of the right elbow as the result of striking his right elbow against the leg of a table at work on April 8, 1964, that he resigned February 2, 1966 because disability related to injury of April 8, 1964 was being aggravated by working from September 30, 1965 to November 19, 1965. He was a patient at the VA Hospital, Bedford, MA. Diagnosis - schizophrenic reaction, schizoaffective type manifested by withdrawal, depression and some paranoid thinking in partial remission and that the external precipitating stress injured on April 8, 1964 signed by Dr. H. Markey of the VA Hospital on September 30, 1965.

Bureau of Employee Compensation  
In the matter of the claim for compensation  
under the Federal Employers Compensation act of

Randolph E. Green - claimant, employed by Department of the Army- Watertown Arsenal, Watertown, Massachusetts.

Such investigation in respect to the above claimant above named, having been made as is considered necessary, and after due consideration of such claim and Report of Record, the Bureau makes the following

Award

Accrued compensation as follows: the sum of \$6,097.36 covering the period November 26, 1965 to January 12, 1967, inclusive of the then sum of \$383.15 for the period January 13, 1967 to February 5, 1967 fraction a day inclusive - Total award \$6,097.36 by the office and the Secretary of Labor - Bureau of Employees Compensation Program.

That the Claimant is entitled to augmented compensation for Dependents. Wherefore, I, Petitioner Randolph E. Green have never received my checks for augmented compensation benefits for my wife, Melba L. Green and my eight (8) dependent children; namely Dolly I. Green born October 21, 1950, William M. Green born August 1, 1953, Edward D. Green (deceased) born December February 5, 1956, Minnie S. Green born July 29, 1957, Elizabeth A. Green born June 4, 1959, Craig A. Green born July 16, 1961, Jonathan D. Green born March 16, 1963, and Kimberly D. Green born August 18, 1964.

Pursuant to the strict interpretation of the letter of the law of the Constitution of the United States by

means wherefore the Secretary of Bureau of Employees Compensation has deprived me of my legal right of due process and made their decision and took action in my Case No. A1-42911 and made a determination evaluation of Petitioner Randolph E. Green's health and welfare condition of that as a result of such injury, the Claimant has permanent disability equivalent to 20%, permanent partial loss of use of the right arm, before and without a medical doctor's evaluation and before and without affording Petitioner Randolph E. Green, a fair and impartial hearing. A judicial or administrative hearing, conducted in accordance with due process.

The record will clearly show by the preponderance of the evidence beyond a reasonable doubt that the Secretary of the U.S. Department of Labor Bureau of Employee Compensation took, action and issued an award on January 18, 1967 in the amount of \$6,097.36 and two days later the U.S. Department of Labor, Secretary of Labor, Et. al., Bureau of Employees Compensation Program issued a check to me in the amount of \$6,097.36 before and without affording Petitioner Randolph E. Green a fair and impartial hearing; a judicial or administrative hearing conducted in accordance with due process. A second check was issued in the amount of \$383.75 on February 16, 1967 to Petitioner of a full settlement, which I refused to settle for.

On or about February 8, 1975, I, Randolph E. Green wrote my attorney - Michael S. Kistin at 6 Beacon and disagreed with the amount of \$6,480.51 check due to the fact that there are more fees to be

claimed, Signed by me, Randolph E. Green on February 8, 1967.

The record will clearly show by the preponderance of the evidence beyond a reasonable doubt that the office of the Secretary of Labor, Compensation Program took action and terminated my, Randolph E. Green, worker's compensation program benefits on January 18, 1967, before and with affording Petitioner prior service of process and a fair and impartial hearing. A judicial or administrative hearing conducted in accordance with due process guaranteed by the Fifth Amendment due process clause of the Constitution of the United States of America.

I, Petitioner, Randolph E. Green saw Dr. Stefan Krause, M. D. on February 24, 1979 for a psychiatric evaluation/. He gave history of being hospitalized at the Bedford, MA VA Hospital in 1965. Petitioner has a 4<sup>th</sup> grade education.

My diagnosis of this patient is schizophrenic reaction: paranoid type depression. My recommendation was that he be hospitalized and given a course of electric shock treatments which I felt might be beneficial to him in view of his depression and the paranoid element of his psychosis.

I, Petitioner, Randolph E. Green saw Dr. Daniel M. Weiss and was examined on May 24, 1979, June 6, and on June 14, 979 it would appear that this man was injured while at work and that this claim of injury has been documented elsewhere and that this injury took place on April 8, 1964, some fifteen years ago. It

further appears that he had become schizophrenic subsequent to that injury and various examinations by psychiatrists have concluded that the schizophrenic condition was a result of the physical injury which he had sustained and which has been previously mentioned. Signed by Dr. Daniel M. Weiss.

The U.S. Department of Labor office of Workers Compensation Program's compensation finding of facts will clearly show that he record by order of the Director, OWCP David T. Woods - Chief Branch of Claims of June 1, 1985, that the parties involved made their own evaluation of Petitioner's health and welfare condition before and without affording me, Petitioner Randolph E. Green, a fair and impartial hearing. A judicial or administrative hearing conducted in accordance with due process.

I, Petitioner Randolph E. Green saw Dr. Jon Papajohn, PhD., Consultant Psychologist on December 20, 1989. This is a summary of my evaluation of December 20, 1989.

My impression in interviewing Mr. Green was that the statements he made to me were a truthful representation of the facts. I strongly believe his case merits further re-examination in light of these facts.

I, Petitioner Randolph E. Green, declaration, 28 USCA Section 1746 of Petitioner Randolph E. Green, dependent wife Melba L. Green, and eight (8) dependent children whose ages when I was injured on April 8, 1964:

Dollie L. Green born October 21, 1953; William M. Green born August 1, 1954; Edward D. Green born February 5, 1956; Minnie S. Green born July 29, 1957; Elizabeth A. Green born June 4, 1959; Craig A. Green born July 16, 1961; Jonathan D. Green born March 16, 1963; and Kimberly D. Green born August 18, 1964.

Judge Rya W. Zobel  
Order of Dismissal  
CA No. 07-10385

Order for Dismissal on July 30, 2007  
Zobel D. J.

In accordance with Memorandum #41 dismissing this action for the reason stated therein, it is hereby ordered that the above captioned matter is dismissed in its entirety with prejudice by the Court /s/ Lisa Unso Deputy Clerk.

Judge Zobel's order of dismissal of CA. No. 07-10385 is in conflict of interest with Petitioner Randolph E. Green's Fifth Amendment due process right. Wherefore such action taken against Petitioner Randolph E. Green on July 30, 207 before and without affording me, Petitioner, a prior service of process, and a fair and impartial hearing. A judicial or administrative hearing conducted in accordance with due process. Wherefore, the proceeding in this court in which the constitutionality of an act of Congress is drawn into question.

Judge Rya W. Zobel's Conclusion  
In Case No. 07.10385

Based on the foregoing it is hereby  
ordered that this action is dismissed  
In its entirety with prejudice.

Pursuant to 28 USC Sec. 1915(§) (3) and Fed. R. App P 24(§) (3) this court finds and hereby certifies that any appeal taken by Plaintiff of the dismissal of this action would not be taken in good faith, and Plaintiff is warned that further frivolous complaints may result in sanctions – so ordered. Dated July 30, 2007 Rya W. Zobel United States District.

The action taken against Petitioner on July 30, 2007, by Judge Rya W. Zobel by means has constituted deprivation of Federal Constitutional Rights guaranteed by the due process clause of the Fifth, Thirteenth, and Fourteenth Amendments to the Constitution of the United States of America. Wherefore Judge Zobel's court is an agency involved in this Court and the proceedings in this Court in which the constitutionality of an act of Congress is drawn into question

Judge Rya W. Zobel's actions taken against Petitioner's legal rights of procedural due process in the lower court. Judge Zobel has deprived Petitioner of the Fifth Amendment due process clause right to the Constitution of the United States of America, and the Equal Protection Clause Right of the Fourteenth Amendment of the Constitution of the United States of America. Wherefore, in this proceeding in this Court in which the constitutionality of an act of Congress is

drawn into question. Wherefore, I, Petitioner Randolph E. Green emphasize oral argument in this Court, Where I, Petitioner have been denied and have been deprived of my right to a day in court involving Case No. A1-42911, Case No. 07-10835, and Case No. 07-2355. Wherefore, I, Randolph E. Green emphasize oral argument pursuant to Rule 28, oral argument is requested in this Court. Petitioner has never had a day in court.

United States Court of Appeal  
For the First Circuit

No. 07-2355

Randolph E. Green  
Plaintiff Appellant

v.

United States Department of Labor, Et. al.  
Defendants Appellants

Before Torruella Circuit Judge  
Stahl, Senior Circuit Judge  
And Howard Circuit Judge

Judgment  
Entered March 19, 2008

The District Court denied Plaintiff's motion for leave to proceed on Appeal in Forma Pauperis. We conclude that there was neither error of law nor abuse of discretion in the District Courts IFP

determination. The motion for leave to proceed on Appeal IFP is denied and the Appeal is dismissed. See 1<sup>st</sup> Cir. Loc., R.27.0 (c).

The Appeal Court judges took action against Plaintiff and dismissed Plaintiff's appeal before and without affording Appellant a fair and impartial hearing. A judicial or administrative hearing conducted in accordance with due process right. The proceeding in this Court in which the constitutionality of an act of Congress is drawn into question in the Supreme Court of the United States of America.

United States Court of Appeal  
For the First Circuit

No. 07-2355

Randolph E. Green  
Plaintiff Appellant

v.

United States Department of Labor, Et. al.  
Defendants Appellants

Petition filed by Appellant Randolph E. Green for en banc hearing or rehearing en banc certificate of service was not include 07-2355 05-05-2008.

Public Docket not constitutional challenge of Federal Statute filed by Appellant Randolph E. Green questioning the constitutionality of an act of Congress pursuant to Rule 44(§) 07-2355.

Order granting motion to file oversize pleading filed by Appellant Randolph E. Green 07-2355.

Order entered by Sandra L. Lynch, Chief Appellate Judge; Juan R. Torruella, Appellate Judge; Michael Boudin, Appellate Judge; Kermit V. Lopez, Appellate Judge; and Jeffery R. Howard Appellate Judge denying Petition for rehearing en banc filed by Appellant Randolph E. Green on June 20, 2008 mandate issued on July 8, 2008. This order of denial was entered June 20, 2008 against Petitioner before and without affording Petitioner a fair and impartial hearing. A judicial or administrative hearing conducted in accordance with due process. Wherefore the proceeding in this Court in which the constitutionality of an act of Congress is drawn into question in the Supreme Court of the United States of America.

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#### **PETITION FOR A WRIT OF CERTIORARI OR APPEAL OR APPEAL**

This is a 1964 Civil Rights Act, it is a federal Workers' Compensation Acts Case, it is an unfair labor practice case and is in violation of Federal Digest 32; and the Petitioner Randolph E. Green respectfully petitions for a Writ of Certiorari or Appeal or Appeal to review the dismissals by the lower courts. Petitioner

has been fighting this case for over forty-four (44) years.

- A. Compelling reason for petition for Writ for Certiorari, wherefore, the proceeding in this court in which the constitutionality of an act of Congress is drawn into question. The Secretary of Labor, US Department of Labor, Et. al. are parties in violation of the Petitioner's due process right.
- B. I, Petitioner, Randolph E. Green, am a citizen of the United States of America and am a resident residing in the Commonwealth of Massachusetts; by means who is a pro se Black, Man of Color who has been deprived of being afforded a fair and impartial hearing. A judicial or administrative hearing conducted in accordance with due process as it is written and guaranteed by the due process clause of the Fifth Amendment to the Constitution of the United States, 42 USCA Section 1983.
- C. Wherefore, I, Petitioner Randolph E. Green and my wife, Melba L. Green and my eight (8) dependent children who reside at 8 Woodbine Street - Roxbury, Massachusetts 02119; who have been discriminated against with gross injustice and hardship involving Case No. A1-42911. Secretary of Labor, US Department of Labor and in Case No. 07-10853RWZ Judge Zobel District Court and in Case No. 07-2355 in the First Circuit court of Appeal; who has deprived me, Petitioner Randolph E. Green, of a

fair and impartial hearing. A judicial or administrative hearing, conducted in accordance with due process clause of the Fifth Amendment to the Constitution of the United States, 42 USCA Section 2000A2 Racial Discrimination. There has been no appeal heard in the appeal court.

D. The United States Department of Labor/Secretary of Labor Et. al. have constituted racial discrimination and concealment of Petitioner Randolph E. Green's hospital reports and all my medical Doctor's evaluation medical reports with gross injustice and hardship in depriving Petitioner Randolph E. Green of full disclosure of my medical doctors medical evaluation reports involving my injury of April 8, 1964, in the line of duty and my injury of September 30, 1965. The proceeding in this Case No. A1-42911, and in case No. 97-10835 RWZ and in Case No. 07-3255, in the First Circuit Court of Appeal. The proceeding in this court which the constitutionality of an act of Congress is drawn into question pursuant to deprivation of federal constitutional rights, 42 USCA Sections 1983, 1981, 1985(3), 1988, 2000a2 and Title 5 USCA Sections 8107 and 8110.

#### Evidence of Hearing

E. I, Petitioner Randolph E. Green have never been afforded a fair and impartial evidentiary hearing, a judicial or administrative evidentiary hearing conducted in accordance with due

process in Case No. A1-42911 FECA, U.S. Department of Labor case and the U.S. Federal District Court Case CA No. 07-10835 and the First Circuit Court of Appeal Case No. 07-2355.

**A Fair and Impartial Hearing**

F. I, Petitioner Randolph E. Green have never been afforded a fair and impartial hearing. A judicial or administrative hearing conducted in accordance with due process in Case No. A1-42911, FECA, U.S. Department of Labor administrative case and the U.S. Federal District Court Case No. 07-10835 and the First Circuit Court of Appeal Case No. 07-2355.

**A Fair and Impartial Hearing**

G. I, Petitioner Randolph E. Green have not been afforded a fair and impartial full hearing, a judicial or administrative full hearing conducted in accordance with due process in case No. A1-42911 FECA U.S. Department of Labor administrative case and the U.S. Federal District Court Case No. 07-10835 and the First Circuit Court of Appeal Case No. 07-2355.

H. Petitioner's compelling reasons for petition for Writ of Certiorari or Appeal on the merits wherefore the United States Department of Labor/Secretary of Labor and the U.S. Federal District Court Judge Rya W. Zobel and the U.S.

First Circuit Court of Appeals Judges Et. al. have deprived Petitioner Randolph E. Green of the procedural due process legal right before and without affording Petitioner Randolph E. Green a fair and impartial hearing. A procedure judicial or procedure administrative hearing conducted in accordance with procedural due process wherefore the proceeding this court in which the constitutionality of an act of Congress is drawn into question.

- I. Wherefore the proceeding in this court, the Supreme Court of the United States in which the constitutionality of acts of congress is drawn into question. Pursuant to United States Code annotated Title 5 USCA Section 8107, involving Compensation Schedule pay have been violated and Section 8110 violated against Petitioner augmented compensation benefits for dependents was terminated and violated on January 18, 1967, before and without affording Petitioner Randolph E. Green a fair procedural and impartial hearing. A judicial or administrative hearing conducted in accordance with due process of law involving Case No .A1-42911 of the employees' workers compensation program involving the April 8, 1964 injury and the September 30, 1965 nervous breakdown injury at work in the line of duty.
- J. I, Petitioner Randolph E. Green, am entitled to redress for grievances and am entitled to relief by law against the Defendants Respondents Et. al. for violating the United States Code

annotated Title 42 USCA Section 1981, Equal Rights under the law. The proceeding in this Court in which the constitutionality of an act of Congress is drawn into question.

- K. Wherfore, I, Petitioner Randolph E. Green, am entitled to redress for grievances and am entitled to relief from the Defendants Respondents Et. al. for violation of United States Code annotated Title 42 USCA Section 1983, deprivation of rights against Petitioner. Wherfore the proceeding in this Court in which the constitutionality of an act of Congress is drawn into question. For violation of Petitioner's civil rights pursuant to Title 42 USCA Section 1983.
- L. Petitioner is entitled to redress for grievance and is entitled to relief from the Defendants Respondents Et. al. for violation of the United States Code annotated Title 42 USCA Section 1985 (3) conspiracy against Petitioner with gross injustice and hardship. The proceeding in this Court which the constitutionality of an act of Congress is drawn into question.
- M. Petitioner, Randolph E. Green is entitled by law to redress for grievance inflicted against Petitioner and Petitioner is entitled to relief from the Defendants Respondents Et. al. for violation of United States Code annotated Title 42 USCA Section 1988. The proceeding in Court in which the constitutionality of an act of Congress is drawn into question.

N. I, Petitioner Randolph E. Green, am entitled to redress for grievances and relief for inflicting of emotional stress damaged and inflicting of punitive damages and for pain and suffering damages against Petitioner's health and welfare by the Defendants Respondents Et. al. for racial discrimination with gross injustice and hardship of (1) concealment of the medical records, (2) interfering with Petitioner's Civil Rights, (3) withholding and depriving Petitioner of my right and privileges secured by Title 42 USCA Section 2000A1 or 2000A2, (4) withholding full disclosure of the exculpatory evidence of all Petitioner's medical doctors' evaluation medical reports of the medical evidence involving Petitioner's damaged health and welfare in Case No. A1-42911 involving violation of Title 42 USCA Section 2000a2. The proceeding in Court in which the constitutionality of an act of Congress is drawn into question.

O. The record of Case No. A1-42911 will clearly show by the preponderance of the evidence beyond a reasonable doubt, by the medical doctors' evaluation medical reports who have treated Petitioner from on or about April 8, 1964 through on or about December 20, 1989 is self-explanatory. That the Defendants Respondents Secretary of Labor Et. al. have violated Title 5 USCA Section 8107, compensation schedule against Petitioner on January 18, 1967 and terminated Petitioner's compensation process and a fair and impartial hearing. A judicial or

administrative hearing conducted in accordance with due process. Wherefore, the proceeding in Court in which the constitutionality of an act of Congress is drawn into question.

P. The record of Case No. A1-42911 will clearly show by the preponderance of the evidence beyond a reasonable doubt that the Secretary of Labor Et. al. terminated on January 18, 1967 Petitioner's augmented compensation pay benefits for my wife and eight (8) dependent children's augmented compensation pay benefit which they were entitled to until they all had finished high school or as long as they were in school. Wherefore the Respondents Secretary of Labor Et. al. have constituted violation of Title 5 USCA Section 8110 against Petitioner, my wife and my eight (8) children before and without affording Petitioner a fair and impartial hearing. A judicial or administrative hearing conducted in accordance with de process. Wherefore, the proceeding in Court in which the constitutionality of an act of Congress is drawn into question.

Q. Wherefore, I, Petitioner Randolph E. Green, whose employment in the Watertown Arsenal Agency had ceased because of unfair labor practice by the Defendants Respondents Watertown Arsenal official supervisor Et. al. who refused and deprived Petitioner Randolph E. Green of being afforded light duty work required

by medical doctors of the U.S. Public Health Service Hospital in Brighton, Massachusetts involving Petitioner's April 8, 1964 injury at work in the line of duty. Wherefore, the Defendants Respondents Et. al. violated Title 5 USCA Section 7103 Act and 7116 Act of Congress. The proceeding in Court in which the constitutionality of an act of Congress is drawn into question.

R. The record will clearly by the preponderance of the evidence beyond a reasonable doubt involving Case No. A1-42911 FECA case where the U.S. Department of Labor Secretary of Labor Et. al. Respondent have violated the Federal Digest 32 by defrauding, depriving, withholding, and terminating Petitioner Randolph E. Green's compensation pay benefits and my wife, Melba L. Green and my eight (8) dependent children augment compensation pay benefits on January 18, 1967 before and without affording Petitioner a fair and impartial hearing. A judicial or administrative hearing conducted in accordance with due process. Wherefore, in fact Petitioner has never received an augmented compensation check for dependents. The proceeding in Court in which the constitutionality of an act of Congress is drawn into question, involving the Fifth Amendment to the Constitution of the United States of America.

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## OPINIONS BELOW

The Appeal dismissed on June 20, 2008; before and without affording Petitioner a fair and impartial hearing. A judicial or administrative hearing conducted in accordance with due process in which the constitutionality of an act of Congress is drawn into question.

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## CONCLUSION

The United States Department of Labor, Secretary of Labor Etal. in Case no. A1-42911 terminated Petitioner Randolph E. Green's compensation pay benefits on January 18, 1967, before and without affording Petitioner Randolph E. Green a fair and impartial hearing. A judicial or administrative hearing conducted in accordance with due process. Wherefore the Secretary of Labor Et. al. have constituted deprivation of federal constitutional rights against Petitioner Randolph E. Green in violation of Title 42 USCA Sections 1981, 1983, 1985(3), 1988, and 2000a2, and Title 5 USCA Sections 8107, 8110, 7103, and 7116. The proceeding in this Court in which the constitutionality of an act of Congress is drawn into question.

The United States Federal District Court Judge Rya W. Zobel's order of dismissal of Civil Action No. 07-10835 in its entirety with prejudice before and without affording Petitioner Randolph E. Green a fair and impartial hearing. A judicial or administrative hearing

conducted in accordance with due process in a court of law. Wherefore Judge Zobel has constituted conflict interest against Petitioner Randolph E. Green's due process legal right in violation of federal constitutional rights guaranteed by the due process clause of the Fifth Amendment to the Constitution of the United States of America – Title 42 USCA Sections 1981, 1983, 1985(3), 1988, and 2000a2, and Title 5 USCA Sections 8107, 8110, 7103, and 7116. The proceeding in this Court in which the constitutionality of an act of Congress is drawn into question.

Wherefore the U.S. Court of Appeal for the First Circuit Judges, namely Sandra L. Lynch – Chief Appellate Judge, Juan R. Torruella, Appellate Judge; Michael Boudin, Appellate Judge; Kermit V. Lopez, Appellate Judge; and Jeffery R. Howard Appellate Judge denying Petition for rehearing en banc filed by Petitioner Randolph E. Green in Case No. 07-2355. Wherefore the First Circuit of Appeals Court five judges took action against Petitioner Randolph E. Green on June 20, 2008 and denied and deprived Petitioner before and without affording Petitioner Randolph E. Green a fair and impartial hearing. A judicial or administrative hearing conducted in accordance with due process. Wherefore the Judges of the First Circuit Appeal Court have constituted conflict of interest against the Fifth Amendment due process clause right.

The Secretary of Labor Etal and the U.S. Federal District Court Jude and the First Circuit Court of Appeals 5 judges Etal, all combined have used wrongful

conduct of subjected violation which has constituted a conflict of interest – in violation of the established constitutional criteria of the Fifth Amendment due process right against me, Petitioner Randolph E. Green on January 18, 1967, June 25, 2007, July 30, 2007, March 19, 2008 and on June 20, 2008 – before and without affording Petitioner prior service process of a fair and an impartial hearing; a judicial or administrative hearing conducted in accordance with due process of federal law.

Wherefore all the actions that have been taken against Petitioner by the Secretary of Labor et. al, by the District Court judge, and by the Fists Circuit Court of Appeal 5-judges Etal is null and void. Where the Secretary of Labor et. al. and the court judges have willfully failed to afford Petitioner the established criteria of the fundamental requirement of due process is the opportunity to be heard at a meaningful time and in a meaning manner. USCA Constitution Amendment 5.

Wherefore the United States Department of Labor, Secretary of Labor Et. al. and the District Court Judge and the First Circuit Appeal Court Judges have all violated Petitioner Randolph E. Green's constitutional rights guaranteed by the Fifth, Thirteenth, and Fourteenth Amendments to the Constitution of the United States of America. Petitioner is entitled to redress and relief for judgment as a matter of law.

Respectfully submitted,

Randolph E. Green  
8 Woodbine Street  
Roxbury, MA 02119  
Phone: (617) 445-6488

I, Petitioner Randolph E. Green, swear and claim that the statements made in the Petitioner's Petition are true by the preponderance of the evidence of the record of Case No. A1-429111, Case No. 07-10385, and Case No. 07-2355; including the deprivation of federal constitutional rights, violation of Petitioner's due process rights, and violation of Petitioner's constitutional rights guaranteed by the due process clause of the Fifth, Thirteenth and Fourteenth Amendments to the Constitution of the United States of America - Title 42 USCA Sections 1981, 1983, 1985(3), 1988, 2000-A2 including Title 5 USCA Sections 8107, 8110, 71083 and 7116; Federal Digest Section 32; and Title 29 USCA Section 666, etc. The statements are true to the best of my knowledge.

Signed under the pains and penalties of perjury.

Randolph E. Green

Sworn and subscribed for me on this \_\_\_\_\_ day of January 2009.

Notary Public

My commission expires:

This is to certify that I, Petitioner Randolph E. Green have served all Defendants Respondents with three (3) copies of this petition at the following addresses:

Elaine L. Chao,  
Secretary of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

Carol Adams, District Director  
U.S. Department of Labor  
Office of Workers Compensation Program  
JFK Federal Building,  
Room E-260  
Boston, MA 02203

(in lieu of the Watertown Arsenal which no longer exists)  
Commanding Officer  
U.S. Army Soldiers System Center  
Department of the Army  
Kansas Street  
Natick, MA 02760

Edward Duncan  
Deputy Director

Federal Employees Compensation  
Office of Workers Compensation Program  
U. S. Department of Labor  
Washington, DC

(now closed)  
U.S. Public Health Services Hospital  
77 Warren Street  
Brighton MA

Alberto R. Gonzales, Attorney General – Indispensible  
Party  
U.S. Department of Justice – Room 440  
950 Pennsylvania Avenue  
Washington, DC 20053

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Randolph E. Green

Attorney Marcel Kistin  
Six Beacon Street  
Boston, Massachusetts

Re: Randolph E. Green  
8 Woodbine Street  
Roxbury, Massachusetts

Vs.

Watertown Arsenal  
Watertown, Massachusetts

Date of Injury: April 8, 1964                  Age: 44 Years  
Date of this Examination; November 26, 1965

Dear Mr. Kistin:

Mr. Randolph E. Green sustained an injury to his right elbow when he struck the elbow against a steel table at work on April 8, 1964. At that time and thereafter, he experienced electric shocks from the elbow to the hand and wrist and received treatment at the Watertown Arsenal clinic and at the Brighton marine Hospital.

The treatment consisted principally of whirlpool and other forms of physiotherapy. He has been unable to work since February 2, 1965.

At the present time, his complaints are:

Pain in the right arm especially in the region of the elbow with pain radiating to the fingers of the hand

Impairment of motor power in grasping

Sensitivity to cold

Some numbness on the back of the hand

### Examination

Examination reveals that the right major hand is intact. There is a loss of one and one-half inches of abduction of the fingers of the right hand during fanning as compared to the left hand. The right hand exerts a force of zero pounds as compared to 160 pounds for the left hand. There is some dullness of sensation over the back of the hand.

Skin temperatures at this time are as follows:

	Right	Left
Thumb	74.75	74.75
Index	74.75	74.75
Middle	74.75	73.75
Ring	75.50	74.75
Small	<u>77.50</u>	<u>74.50</u>

(Variation greater than 1.00 f. in identical points of opposite hands is significant.)

X-rays reveal some calcification in the soft tissues in the region of the ulnar nerve and a bony exostosis opposite the olecranon process.

### Opinion

Mr. Green sustained a crush injury to the ulnar nerve of the right arm at this time of his injury when he

struck the right elbow on April 8, 1964. Subsequently, he has had symptoms of nerve injury in that he has had partial atrophy of the intrinsic muscles of the hand as evidenced by the impairment of abduction of the fingers during fanning, impairment of motor power; slight numbness on the back of the hand and tenderness in the region of the ulnar nerve and posterior elbow.

Mr. Green has reached an end result from active treatment. He has a loss of function of 20% in the right elbow and 30% in the right hand as a hand. Disfigurement of the hand is slight due to atrophy of muscles.

Sincerely yours,

Stephen W. Meagher, M.D.  
SWM: kem

Stephen W. Meagher, M.D.  
520 Commonwealth Avenue  
Boston, Mass 02215

September 30, 1966

Attorney Marcel S. Kistin  
Six Beacon Street  
Boston, Massachusetts

Re: Randolph E. Green  
8 Woodbine Street  
Roxbury, Mass

vs.

Watertown Arsenal  
Watertown, Massachusetts

Date of Injury: April 8, 1964

Date of this Examination: September 27, 1966

Dear Mr. Kistin:

As you know, Mr. Randolph Green sustained an injury to his right elbow at work on April 8, 1964 when the elbow was struck against a steel table.

Up to the present time, he has continued to experience electric shocks when turning the elbow in certain positions with radiation of the shocks down the arm. He has cramps in the region of the wrist at times and in the fingers with aching especially in the small finger. Sensitivity to cold is also present in the elbow and hand.

1. A feeling of looseness in the elbow
2. Numbness in the small and ring fingers of the right hand
3. Sensitivity to cold
4. Stiffness in the elbow at times
5. Marked impairment in the power of grasping in the right hand
6. Pain in the region of the elecranon Process radiating down to the wrist and fingers
7. Aching in the arm and hand
8. Muscle cramps in the hand when he attempts to use it for any length of time

9. Tenderness over the inner part of the right elbow

Examination

Examination reveals that the right hand exerts a force 40 pounds as compared to 260 pounds for the left minor hand. There is some dullness of sensation over the ulnar nerve aspect of the right hand. All joints appear to move through a normal range of motion. There is tenderness on each side of the olecranon at the right elbow. There is now a loss of three-quarters of one inch of abduction of the fingers during fanning in the right hand as compared to the left hand.

Opinion

Since my last report, there has been no substantial change in the condition of Mr. Green's right hand and arm.

I see no reason to alter my opinion as to his loss of function and disfigurement as previously stated. Following my original examination, I felt that Mr. Green had a loss of function of 20% in the right elbow and 30% in the right hand as a hand. Disfigurement of the hand was slight due to atrophy of muscles.

Sincerely yours,

Stephen W. Meagher, M.D.

SWM:kem

Stephen W. Meagher, M.D.  
520 Commonwealth Avenue

Boston, Mass. 02215

February 14, 1967

Attorney Marcel S. Kistin  
Six Beacon Street  
Boston, Massachusetts

RE: Randolph E. Green  
8 Woodbine Street  
Roxbury, Mass

Vs.

Watertown Arsenal

Date of Injury: April 8, 1964

Date of this Examination: February 3, 1967

Dear Mr. Kistin:

As you know, Mr. Green sustained an injury to his right elbow at work on April 8, 1964 when the elbow was struck against a table. As a result of this injury to the arm and the ulnar nerve, he has the following complaints at this time:

Numbness in the small and ring fingers of the right hand sensitivity to cold stiffness in the elbow at timesarked impairment in the power of grasping in the right hand and in the region of the elecranon process radiating down to the wrist and fingers in the arm and hand muscle cramps in the hand when he attempts to

use it for length of time tenderness over the inner part of the right elbow.

Examination

Mr. Green has an intact right arm and hand. The right major hand exerts a force of 60 pounds as compared to a force of 330 pounds in the left hand. There is a loss of three-quarters of one inch of fanning of the fingers of the right hand during abduction of the fingers as compared to the normal left hand. There is dullness of sensation over the ulnar nerve distribution of the right hand. Tenderness is present on palpation over both sides of the olecranon and especially over the medial condyle of the elbow.

X-rays, which were previously taken, reveal the presence of calcification in the tissues in the region of the ulnar nerve at the right elbow. In addition, a bony exostosis opposite the olecranon process was also seen.

All of the joints in the extremity move through a normal range of motion. Grossly, there is slight atrophy of the intrinsic muscles of the hand.

Opinion

Mr. Green sustained a serious closed type of injury to the ulnar nerve in the region of the right elbow at work on April 8, 1964 which has caused a marked impairment in the power of grasping in the major right hand as well as marked limitation of manipulative ability of the hand for a prolonged period because of the presence of cramping of the intrinsic muscles when he attempts to perform manipulative movements over a period of any duration. The sensory deficit in his hand is permanent since it would have returned to normal before now if it was going to do so; it is now approximately three years

since his injury. The impairment in the loss of fanning of the fingers of the right hand is due to atrophy of the intrinsic muscles, which are responsible for this motion. Tenderness in the elbow has been persistent up to the present time and I believe that this is permanent. Sensitivity to cold is fairly marked during the colder months of the year. The weakness in the hand and the power of grasping and the sensitivity to cold and the feeling of stiffness at times is due to the presence of reflex vasospasm as a result of the injury to the ulnar nerve. This aspect of his problem is permanent.

On the basis of the foregoing findings, it is my opinion that he has the following loss of function.

#### Disability

There is a loss of function of 35% in the right upper extremity as an extremity. There is slight disfigurement of the hand due to some atrophy. An end result from active treatment has been reached.

Sincerely yours,

Stephen W. Meagher, M.D.  
SWK:kem

Stephen W. Meagher, M.D.  
520 Commonwealth Avenue  
Boston, Mass 02215

August 12, 1974

Mr. Randolph E. green  
8 Woodbine Street

Roxbury, Massachusetts

Re: Randolph E. Green  
8 Woodbine Street  
Roxbury, Mass

vs.

Watertown Arsenal

Date of Injury: April 8, 1964                    Age 53 Years  
Date of this Consultation: August 6, 1974

Dear Mr. Green:

As you know, you came in to see me in my office on August 6, 1974, in relation to the chronic problems that you have had with your right upper extremity since the accident of April 8, 1964. You have copies of my previous reports, most especially, the copy of November 20, 1965, when I first examined you and found that you had evidence of post-traumatic vasospasm as proven by abnormal skin temperatures and calcification in the region of the ulnar nerve at the right elbow at the site of injury by x-ray. In this examination, you stated that you continue to have easy fatigability of the arm with aching in the region of the elbow at the site of injury on the dorsal aspect of the elbow, and the dropping of objects at times with weakness of grasp, discomfort, and dullness of feeling in the right hand and arm.

Examination

Examination reveals that the right major hand and arm are intact. The right hand has a grasp of only 70 pounds compared to 330 pounds in the left minor hand. There is a loss of one inch of fanning of the fingers of the right hand compared to those of the left hand on the basis of intrinsic muscle atrophy. There is diminished sensory acuity in the right hand and arm in response to pin prick up to the level of the elbow, most especially marked in the ulnar nerve distribution. There is a pigmented area that measures one and one-half inches by one inch over the dorsal elbow. There is a full range of motion of the small joints of the hand, wrist, and elbow.

#### Opinion

You have definitely reached an end result from active treatment for the injury sustained to your right upper extremity, at work, on April 8, 1964. You will not require further active treatment for this complaint in my opinion. You will permanently be unable to perform the duties that you were doing at the time of the injury. You cannot perform any heavy work or rapid manipulative work with the right upper extremity.

#### Disability

There is a loss of function of 20% in the right elbow, and 30% in the right major hand as a hand. There is an overall loss of function of 40% in the right upper extremity as an extremity. Disfigurement of the hand is slight. Disfigurement of the elbow is slight. An end result has been reached.

Sincerely yours,

Stephen W. Meagher, M.D.

SWM:lar

**STATEMENT OF ACCEPTED FACTS IN CASE NO.**  
**A1-42911**  
**RANDOLPH E. GREEN**

The Bureau accepts as factual that Randolph E. Green, born 11/13/21, sustained a contusion of the right elbow as the result of striking his right elbow against the leg of a table at work n 4/8/64; that he resigned 2/2/65 because disability related to injury of 4/8/64 was being aggravated by working; that from 9/30/65 to 11/19/65 he was a patient at the VA Hospital, Bedford.

Diagnosis: Schizophrenic Reaction, Schizo - Affective Type, manifested by withdrawal, depression, and some paranoid thinking, in partial remission, and that the external precipitating stress was injury of 4/8/64.

T.J. Connelly  
Claims Examiner

TJC:jg  
April 25, 1964

Bureau of Employees: Compensation

In the matter of the claim for compensation under  
the Federal Employees' Compensation Act of

Randolph E. Green

Claimant

Employed by: Department of the  
Watertown Arsenal  
Watertown, Mass

Compensation Order  
Award of Compensation  
Case No: A1-42911

Such investigation in respect to the above-entitled  
claim having been made as is considered necessary, and  
after due consideration of such claim and reports of  
record, the Bureau makes the following:

FINDING OF FACT

That on April 8, 1964 the claimant above-names  
while in the employ of the employing establishment  
above-names sustained personal injury in the  
performance of duty which resulted in permanent partial  
loss of use of right arm

That timely notice of injury and claim for  
compensation were respectively given and filed;

That the monthly pay as determined pursuant to  
Section 12 of the Federal Employees' Compensation Act  
is the equivalent of \$133.00 per week; plus 12.5%

effective October 1, 1966 under Section 13, PL 89-488. That as a result of such injury the claimant has permanent disability equivalent to 20% permanent partial loss of use of right arm

That the claimant is entitled to augmented compensation for dependents;

That for such permanent disability and pursuant to Section 5 of the Federal Employees' compensation Act the claimant is entitled to 62.40 weeks' compensation at the rate of \$100.20 per week for the period November 26, 1965 to September 30, 1966, inclusive; and \$112.69 per week for the period to October 1, 1966 to February 5, 1967, fraction of a day, inclusive.

Upon the foregoing findings of fact it is ORDERED that there shall be paid from the Employees' Compensation Fund the following

AWARD

Accrued compensation as follows: The sum of \$6,097.36 covering the period November 26, 1965 to January 12, 1967, inclusive; then the sum of \$383.15 for the period January 13, 1967 to February 5, 1967 fraction of a day, inclusive. Total award \$6480.51.

Given under my hand at Boston, Massachusetts this 18<sup>th</sup> day of January, 1967.

Thomas A. Tinsley, Director  
Bureau of Employees' Compensation  
By: C.L. Hevde

8 Woodbine Street  
Roxbury, Mass.  
February 8, 1967

Marcel L Kistin  
Beacon Street  
Boston, MA

I disagree with the total award in the amount of \$6480.51. I will hold checks due to the fact that there are more fees to be claimed.

Signature: Randolph E. Green

P. Stefan Karuse, M.D.  
2000 Washington Street  
Newton Lower Falls, Mass 02162

A.P. Bloomenthal, M.D.  
5 Bank Street  
Waltham, Massachusetts

RE: RANDOLPH E. GREEN  
8 Woodbine Street  
Roxbury, Mass.

Dear Doctor Bloomenthal:

In answer to your request of May first, I would like to inform you that I saw Mr. Green on February 25, 1970 in psychiatric evaluation. He gave a history of being hospitalized at the Bedford Veterans Administration Hospital in 1965. Patient has a 4<sup>th</sup> grade education.

Patient arrived with a suitcase full of documents referring to his alleged injury and the results of it. In essence, this is all he wanted to discuss. He also stated that he was hospitalized for 2 months, and was on Haldol, 1/2mg., t.i.d. He felt that his condition was induced on purpose by his employer, that they did not give him light work as was indicated but reassigned him to his regular job as an electrical heliarc welder, using an air pressure gun and Dallett gun. He also felt that this company returned him to regular duty to "worsen his condition" and that "they wanted to see me in a condition that would drive me out of my mind". He also brought up the point that this was due to discrimination. He said that his mind was affected to the point where he felt that people were after him and watching him. He said that he felt depressed, had insomnia, and felt like walking through a wall.

My diagnosis of this patient is schizophrenic reaction, paranoid type with depression. My recommendation was that he be hospitalized and given a course of electric shock treatments, which I felt might be beneficial to him,

in view of his depression and the paranoid elements of his psychosis.

I saw Mr. Green at a later date with his wife who works as a psychiatric aide at the Veterans Hospital at Jamaica Plain and who said that she felt qualified to oppose the recommendation of the electric shock treatments.

I have not heard from them since that time.

Sincerely,

P. Stefan Krause, M.D.

Dr. Daniel M. Weiss, Inc.  
Newton-Wellesley Hospital Medical Office Building  
2000 Washington Street  
Newton Lower Falls, Mass. 02162

Telephone (617) 969-8250

July 9, 1979

Paul S. Horovitz, Esq.  
Horovitz, Gordon & Robbins  
Six Beacon Street  
Boston, Mass. 02108

Dear Mr. Horovitz:

Re: Randolph E. Green

This will confirm the fact that I have examined your client in extended interviews. These took place on 24 May 1979, 6 June and 14 June 1979. He is a fifty-seven year old, black, married, protestant male who states that he was in his usual state of good health until he was injured at the Watertown Arsenal on 8 April 1964. He has been almost totally unable to work since that time. He was a welder then and he apparently hit his right elbow somehow on a corner of a steel table and his ulnar nerve was injured. He apparently was paid weekly benefits and was then given a 20% award for loss of function of the right arm on 18, January 1967. However, I am told by him that he refused this, saying that the Board was not made aware of his psychiatric history at the time, nor were they aware of his continuing psychiatric problems.

He was born in Tuskegee, Alabama and there were four brothers and two sisters in all. He was the youngest of this group. Both of his sisters are now dead. His mother died in 1972 at age ninety-one and his father died many years ago. He was in the CCC at age eighteen and then came to Boston in 1942. He joined the 9<sup>th</sup> Cavalry Division during World War II, but never served overseas and was in the Service only for a total of eight months. We are not sure of the manner of his discharge, but he never received a pension for this. He remained in the Boston area as a welder. I am told that he had only four grades of school, but on the other hand it does appear that his intellect is far above a fourth grade level. He has worked for the Federal Government for a total of about twenty years at the time when he was forced to leave work because of the injury and had worked at the

Watertown Arsenal for fifteen years. He gave up his job in February, 1965 having attempted to work after the injury, but having found that he could not stand the light duty that was involved.

He was seen by Jordan Joseph, M.D., a neurologist, who apparently felt that he was of low intellectual quotient of approximately 80 and he found some paranoid thoughts and idication present in this man.

He was admitted to the Bedford Veterans Administration Hospital in September 1965 and discharged two months later to his LMD.

Dr. Bloomenthal. In his hospitalization it was noted that he had become withdrawn and depressed subsequent to his having left his work and that he had left his work because it was not possible for him to continue and that this was secondary to an injury which he had sustained while at work. He was given phenothiazine medication and a discharge diagnosis was made of schizophrenic reaction, schizo-affective type. However, it does not appear to me that he was not followed up after his discharge by psychiatrists and he has instead continued to see Dr. Bloomenthal from time to time and on occasion was seen again back at the Bedford V.A. Hospital Outpatient Department. He has stated to me that he continues to get medication and I checked with Dr. Bloomenthal about that. It appears that he gets Vitamin B injections, perhaps twice monthly, and Triovil only when necessary.

He was also seen by Dr. Stefan Kraus on 15 May 1970. Dr. Kraus recommended very strongly that he be given the benefit of electro shock treatments and confirmed the diagnosis of schizophrenic reaction. He was also seen by Dr. Charles Pinderhughes who felt that here was a chronic relatively well compensated psychotic condition with paranoid symptoms and he felt that this was a chronic state secondary to the accident itself. This examination was done on 31 July 1970.

He married in 1942 to a woman one year younger than himself and this marriage is still in existence. There are eleven children from this marriage. The oldest is thirty-five and the youngest is now fourteen.

The symptomatology includes the fact that he has become rather reclusive at home, argumentative and continues to be somewhat paranoid. He has not been able to work, but has become very litigious and in fact he has entered suits in his own behalf against various people, including some who have been attempting to help him. He is constantly concerned that people are going to get the better of him and he as a matter of fact tells me that before he finally had to leave work he was deliberately sprayed with acid in the plating shop at the Watertown Arsenal and that this also served to cause him to become disabled. He denies it at this time, but says that formerly he did have delusions and hallucinations and at various times has been treated with Haldol, Stelazine, and other phenothiazine medications. I myself recommended Daxolin to him.

It would appear that this man was injured while at work and that this claim of injury has been documented

elsewhere and that this injury took place on 8 April 1964, some fifteen years ago. It further appears that he had become schizophrenic subsequent to that injury and various examinations by psychiatrists have concluded that the schizophrenic condition was a result of the physical injury, which he had sustained and which has been previously mentioned.

It is fairly well documented also that he continues to be so afflicted and that he continues to be, therefore, unable to work because of his suspiciousness, irritability, and preoccupation with his condition and inability to get along with people.

In my opinion this man suffers from a schizoaffective reaction with paranoid symptomatology in a relatively inactive state at this time.

This is a chronic condition and it is secondary to and casually related to the accident as mentioned above.

The prognosis is very poor.

He should continue, of course, to be under the care of a psychiatrist or an outpatient clinic such as the Bedford V.A. Hospital Clinic, which knows him, rather well.

As you know the American Board of Psychiatry and Neurology certify me as a psychiatrist.

Sincerely yours,

Daniel M. Weiss, M.D.

DMW:MPB

U.S. DEPARTMENT OF LABOR  
OFFICE OF WORKER'S COMPENSATION  
PROGRAMS

In the matter of the claim for compensation under Title 5, US Code 8101 et seq., of

CLAIMANT: Randolph E. Green

EMPLOYED BY: Department of the Army

COMPENSATION ORDER

REJECTION OF CLAIM

CASE NO; A1-042911

Such investigation in respect to the above-entitled claim having been made as considered necessary, and after due consideration of such claim and reports of record, the Office makes the following:

FINDINGS OF FACT

That claimant named above was employed by the above named employing establishment; that Notice of Injury and written Claim for Compensation were respectively given and filed; that he sustained a work related injury on April 8, 1964 which was accepted by this Office for contusion right elbow; that claimant did not lose any time from work; that claimant filed a Claim

for Compensation on February 2, 1965 due to the injury of April 8, 1964; that it was accepted by this Office that claimant was suffering from an emotional condition causally related to the accepted injury; of April 8, 1964; that claimant received compensation benefits for temporary total disability from February 2, 1965 through November 22, 1965.

It was determined by this Office that the emotional condition was temporary in nature and that it had ceased by November 22, 1965; that the sole remaining residual disability due to the incident of April 8, 1964 was to the right arm; that claimant received a Schedule Award benefit for a twenty (20) percent loss of function of the right arm for the period November 23, 1965 to February 5, 1967; that medical evidence of record establishes that there has been no increase in the permanent impairment of the right arm subsequent to the issuance of the Schedule Award benefit for twenty (20) percent impairment; that under Section 5 of the Law in effect at the time of the injury no wage loss benefits are payable subsequent to the Award for Permanent Impairment.

Upon the foregoing Findings of Fact it is ORDERED that the claim for compensation benefits be and the same is hereby REJECTED for the following reasons.

Medical evidence of record establishes that there is no causal relationship of the current emotional condition to the accepted injury of April 8, 1964. The accepted emotional condition had ceased by November 22, 1965; (2) there has been no increase in the permanent

impairment of the right arm subsequent to the issuance of the Schedule Award; (3) the right arm was the sole residual disability due to the accepted injury of April 8, 1964 and under Section 5 of the law in effect at the time of the injury no wage benefits are payable subsequent to the award for permanent impairment.

John PapaJohn, Ph.D.  
Consultant Psychologist  
70-7 Kirkland Street  
Cambridge, MA 02138

This is a summary of my evaluation with Mr. Randolph Green who I saw on December 20, 1989.

Mr. Green is a sixty-eight-year-old black man who presents in an articulate and forthright manner. His verbal skills and capacity to state his points well reflects a high level of intelligence. He is in good physical health with the exception of hypertension upon which he has suffered over an extensive period of time.

He is married and the father of eleven children ranging in age from 25 to 42. His wife, age 66, is employed and the main breadwinner in the family since he was disabled in a on the job accident in 1964. Mr. Green worked as a welder at the Watertown Arsenal where he injured his elbow to the extent that he was no longer able to function in that capacity and found himself unemployed. Furthermore, the psychological trauma consequent to his physical incapacitation resulted in severe psychological disorganization, which he termed "a nervous breakdown." The severity of this psychotic illness is reflected in the diagnosis of Schizophrenic

reaction, schizo-affective type, which he received when hospitalized at the Bedford Veterans Administration Hospital between September 30 and November of 1965.

This diagnosis was confirmed over the ensuing years in the many psychiatric contacts he has had and which are documented in various reports which he informs me have been submitted to your office.

His latest psychiatric contact was three months ago when a Doctor Patterson of Lexington, Mass., who renewed his, saw him prescription for Triovil, which he has been taking for the last six years. Whenever he has stopped taking this anti-psychotic medication he becomes anxious and severely depressed, paranoid and suicidal. He gets urges, for example., to put his finger in acid, and to touch the third rail when he is taking the T. He reports being exhausted by the stresses incumbent in having his case for compensation honored by the government.

I have read the psychiatric reports Mr. Green brought with him to the session with me and they consistently validate the original psychotic diagnosis. In the review of his original claim issued on April 25, 1966, the diagnosis of Schizophrenic Reaction, Schizo-Affective Type "manifested by withdrawal, depression and some paranoid thinking" (Case No. A142911 signed by a T.J. Connelly) as affirmed.

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My impression in interviewing Mr. Green was that the statements he made to me were a truthful representation of the facts. I strongly believe his case merits further reexamination in the light of these facts.

Sincerely,

John Papajohn, Ph.D.

**Supreme Court of the United States  
Office of the Clerk  
Washington, DC 20543-0001**

**William K. Suter  
Clerk of the Court  
(202) 479-3001**

March 20, 2009

**Mr. Randolph E. Green  
8 Woodbine Street  
Foxbury, MA 02119**

**Re: Randolph E. Green  
v. Department of Labor, et al.  
No. 08-977**

Dear Mr. Green:

The Court today entered the following order in the above-entitled case:

The petition for a writ of certiorari is denied.

Sincerely,

**William K. Suter, Clerk**

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**IN THE SUPREME COURT OF THE UNITED  
STATES**

**GREEN, RANDOLPH E.**  
**Petitioner**

**Vs.**

**No. 08-0977**

**DEPARTMENT OF LABOR, ET AL.**

**WAIVER**

The Government hereby waives its right to file a response to the petition in this case, unless requested to do so by the Court.

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**EDWIN S. KNEEDLER**  
Acting Solicitor General  
**Counsel of Record**

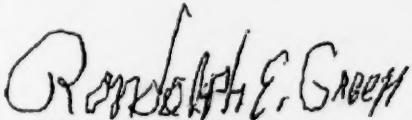
**March 5, 2009**

**cc:**

**RANDOLPH E. GREEN**  
**8 WOODBINE STREET**  
**ROXBURY, MA 02119**

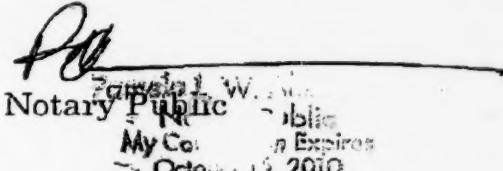
**AFFIDAVIT IN SUPPORT OF THE MERITS.**

I, Petitioner, hereby move, verify, certify, declare and swear that the statements contained herein this document are true merits shown by the preponderance of the evidence to the best of my knowledge. Signed under the pains and penalties of perjury on this    day of April 2009.



Randolph E. Green  
8 Woodbine Street  
Roxbury, MA 02119

Sworn and subscribed to before me a Notary on this  
20th day of April, 2009.



Notary Public  
My Commission Expires  
October 13, 2010

My commission expires:

This is to certify that I, Randolph E. Green, Petitioner have served the Government Respondent three copies of this document motion to the acting Solicitor General Counsel of Record, Edwin S. Kneedler, US Department of Justice - Office of the Solicitor General - Washington, DC 20530 by regular U.S. Mail on this 21 day of April 2009.



Randolph E. Green